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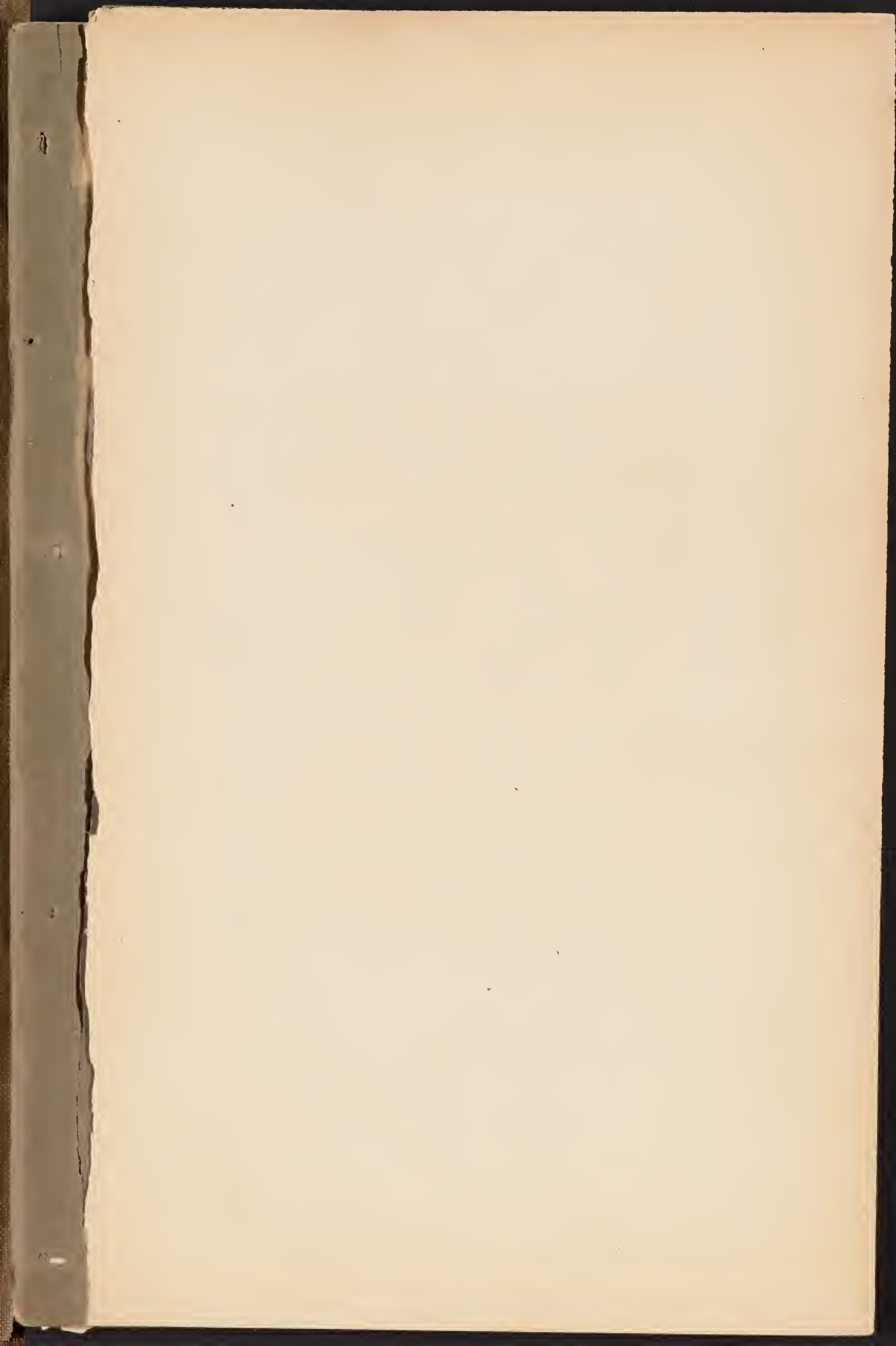
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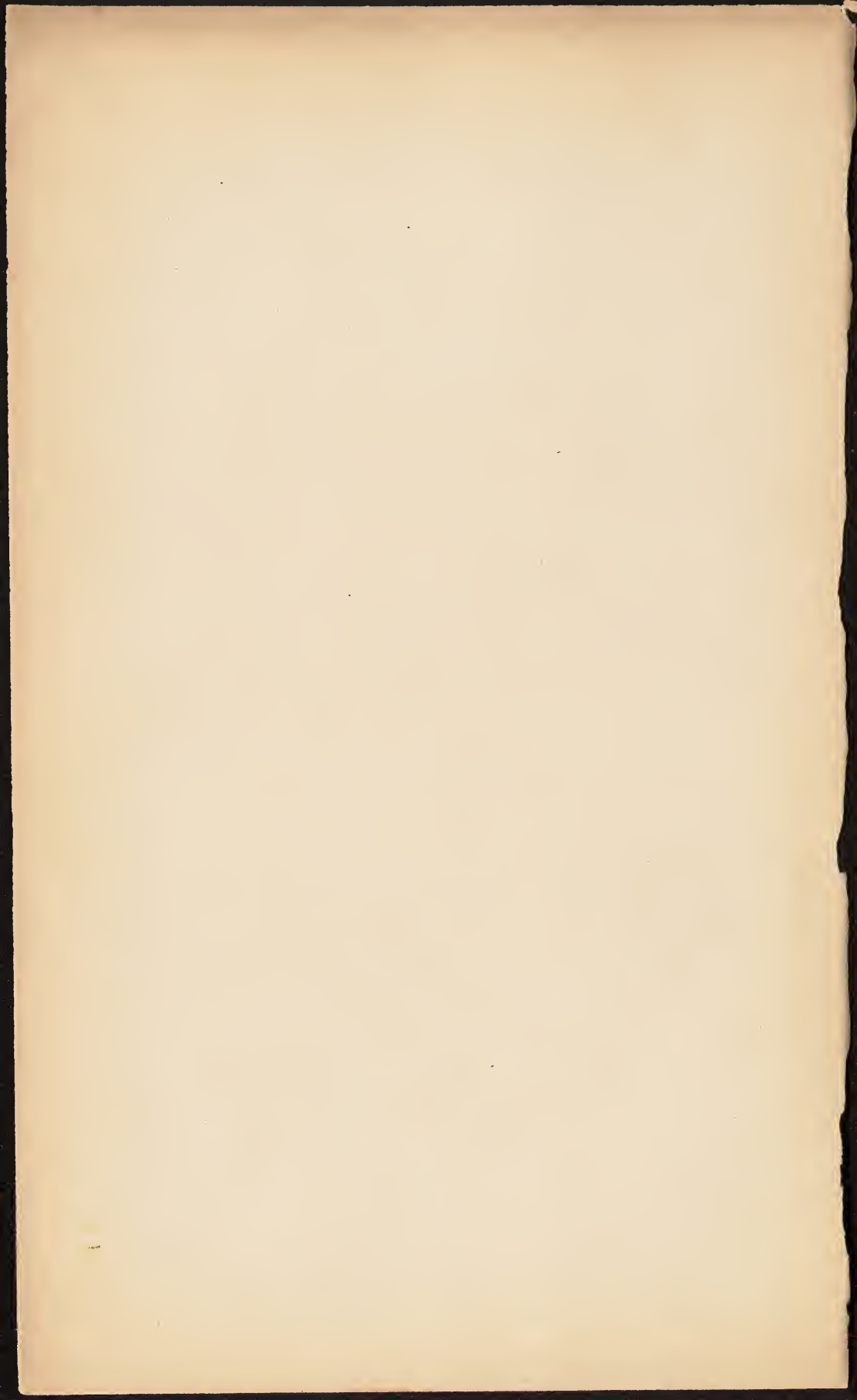
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**INTERNATIONAL  
CHAMBER OF COMMERCE**

**FIRST CONGRESS**

**LONDON (June 27, to July 1, 1921)**

*Brochure No. 11.*

**DOUBLE TAXATION**

**PART I**

**REPORT OF THE SELECT COMMITTEE OF THE CHAMBER**

**INTERNATIONAL HEADQUARTERS :**

**PARIS**

**33 RUE JEAN-GOUJON.**

# INTERNATIONAL CHAMBER OF COMMERCE

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## DOUBLE TAXATION

*Report by M. Gaston PERIER, Chairman of the Select Committee on Taxation.*

The Committee, which examined the resolution of the Organization Meeting of the International Chamber of Commerce relating to duplicate taxation, held meetings in Paris during March and April 1921.

I had the honour of presiding over the work of this Committee, which was composed as follows :

**Belgium :** M. Gaston PERIER, Director, Banque d'Outre-Mer, Brussels.  
M. Lucien BECKERS, Director, Banque d'Outre-Mer, Brussels.

**France :** M. Etienne CLÉMENTEL, President of the International Chamber of Commerce.

M. LEVEL, Manager, Banque Nationale de Crédit, Paris.

M. LECARPENTIER, General Secretary, Comité d'Etudes et de Défense Fiscale, Paris.

**Great Britain :** Sir ALGERNON F. FIRTH, Bart., Member of the Council of the International Chamber of Commerce, Vice-President, Association of British Chambers of Commerce.

Mr. O. E. BODINGTON, English and American Lawyer, Hon. Vice-President, British Chamber of Commerce in Paris.

**Italy :** M. Avv. Giuseppe BIANCHINI, Direttore a l'Associazione Bancaria Italiana, 14, via Meravigli, Milan.

M. Ugo CAPITANI, Administrative Commissioner of the International Chamber of Commerce for Italy—General Secretary of the Italian Chamber of Commerce in Paris.

**Netherlands :** M. Ph. Von HEMERT, President, Dutch Chamber of Commerce in Paris.

**United States :** Mr. John B. ROBINSON, Coudert Brothers, Paris.

Mr. Robert GRANT, Jr., Lee Higginson & Co.

The Organization Meeting in Paris had adopted the following resolution in June 1920 :

### II. TAXATION.

“ RESOLVED, That the International Chamber of Commerce, in  
“ meeting duly assembled, composed of representatives of commercial  
“ and industrial organizations of the allied countries, urge prompt  
“ agreement between the Governments of the allied countries in order  
“ to avoid that individuals or companies of any one country may be  
“ liable to more than one tax on the same income, taking into consi-  
“ dération that the country to which such individual or company  
“ belongs has right to claim the difference between the tax paid and the  
“ home tax ;

“ And further

“ That the Board of Directors make representations at once to  
“ the Governments of the allied countries concerned and endeavour  
“ to secure legislation in their respective countries to carry this reso-  
“ lution into effect. ”



The work of this Committee was based on this resolution, due regard being paid to the new circumstances arising from the fact that countries which were not represented at the Organization Meeting had since joined the Chamber and taken an active part in its work.

In the provisional programme of the London Congress Dr. Walter LEAF, President of the Finance Group, has drafted the following tentative Resolution on this important international question :

“ Whereas the existing system of double taxation places a heavy “ burden on international trade this Congress resolves that Governments “ should be pressed to come to an understanding with a view to alleviating this burden ”.

We have tried to collect precise and detailed information regarding the question of Double Taxation, in order to facilitate the work of the London Congress.

After having carefully studied the different special laws on this question and the general principles upon which these laws are based, we have unanimously arrived at the conclusion that the granting of a complete rebate is difficult, if not impossible, but that an attempt should be made to arrive at the establishment of a transactional system based on an additional and moderate form of taxation and on *general reciprocity* between nations.

The burden of war debt is crushing among the belligerent nations ; it weighs heavily also on certain neutral countries. In order to strengthen their financial position Governments are, everywhere, appealing to financial self-sacrifice of the taxpayer ; and taxpayers in return are entitled to look for that financial equity on which the development of commerce and industry depends.

Taxation must be bearable and must not stamp out the spirit of initiative.

The resolution adopted by the Organization Meeting of the International Chamber of Commerce could only help countries which are heavily taxed. It would only benefit those countries which are more heavily taxed than their neighbours.

Obviously something must be done to discourage the efflux of national capital ; but it is not only at home that there should be an outlet for the spirit of enterprise.

The new countries, the areas which still are inadequately equipped, the great international undertakings, should all be able to rely upon the capital and energy of capitalists and working men.

All alike are entitled to the benefits of great inventions, to the progress of science.

It is to the interest of Governments to have, at all times, substantial credits abroad ; the partial investment of national wealth abroad is a powerful asset in a national crisis.

With the energetic and devoted assistance of the staff at International Headquarters and the various National Committees the Select Committee on Double Taxation presents the accompanying statement and has summarized its work by adopting the following principles

*1st. Principle.*

With regard to the tax on income earned and collected within the country, from whatever source derived (real estate, personal property, business and professions), without prejudice to the question of super-tax (*impôt global*) on income, each country should accord similar treatment to all tax payers, both citizens and foreigners, whether resident in the country or not.

*2nd. Principle.*

With regard to the tax on incomes earned and collected abroad, from whatever source derived (real estate, personal property, business and professions), without prejudice to the super-tax (*impôt global*) on income, each nation should accord similar treatment to all tax payers subject to this tax (i. e. citizens or foreigners resident in the country and citizens resident abroad) ; if this class of income cannot be entirely free from liability to taxation, it should be the object of a considerable rebate in consideration of the tax on such income already levied in the country of origin : this principle is already in force in certain countries (in Belgium, for example, where the rebate amounts to 80%, and in the United States, where the rebate is total in case of reciprocal treatment).

With regard to income collected in the country but earned either wholly or in part abroad, the same principle of total or partial rebate should be applied to the part of such income which has been earned abroad.

*3rd. Principle.*

With regard to the super tax (*impôt global*) on income of every class (real estate, personal property, business and professions) it is desirable that each country tax only its own citizens without regard to their place of residence.

In cases where certain countries cannot adopt this solution they should at least refrain from taxing foreigners resident within their frontiers except by a tax applicable solely to the total income earned in the country itself apart from income earned in other countries.

*4th. Principle.*

It is desirable to see the above mentioned principles applied to companies, etc., in the same manner as to individual persons.

*5th. Principle.*

It is desirable to see the above mentioned principles also applied in the case of succession and death duties by means of international conventions.

## QUESTIONNAIRE ON DOUBLE TAXATION

*Circulated to National Committees whose replies are given in this brochure.*

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## DOUBLE TAXATION

### A. SUMMARY OF THE GENERAL PRINCIPLES ON WHICH THE FISCAL LAWS NOW IN FORCE ARE BASED.

#### Belgium.

It is generally accepted that taxation has a territorial character in the sense that a nation can only tax the *revenues* produced or obtained on its territory, and the *persons* (nationals or foreigners) residing on its territory.

This principle was already established by the old Belgian legislation. Thus it was that the land tax only affected real estates situated in Belgium ; that the personal taxation was only required from persons occupying a habitation in the country ; and finally, that the patent duty was payable by every person carrying on in Belgium a commerce, profession, industry, trade or retail sale not expressly exempt by the law.

The application of this principle raised a question, which was particularly interesting, as regards stock companies whose establishments are situated abroad. The competent Courts ruled that Belgian companies were taxable as to patent dues on the whole of their profits, whether they were of Belgian or foreign origin. (Judgment of the Liège Court of Appeal of July 23, 1902, confirmed by the judgment of the *Cour de Cassation* of January 8, 1903, on Burlet and Masson, No 137).

It will naturally be noticed that there is a repetition here. Therefore M. BEENSERT, the ex-Minister of Finance, in 1903 introduced a Bill the first article of which arranged for the exemption from the patent tax of profits earned abroad by Belgian companies (Document Chamber of Representatives No 81, session of February 6, 1903).

This proposed law clashed with another bill introduced in the name of the Government by the Minister of Finance of the time, the Count de SMET DE NAEYER (Document No 91, session February 12, 1903) and which resulted in the law of March 29 1906, articles 9 and 10 of which confirmed in principle the existing jurisprudence, but reduced by one-half the patent duty with regard to profits earned by Belgian companies in distinct establishments situated abroad, while at the same time exempting them from the additional provincial and communal centimes and the special taxes levied by those administrations.

The discussion was heated. M. BEERNAERT urged that " a law affecting national territory, its inhabitants and transactions within its borders, cannot look for taxable material in transactions abroad, outside the limits of the sovereignty of which it is the embodiment " ; furthermore he found it " absolutely unjust that the same labour, the same industry should pay dues once in the country where it is exercised and where it has its legitimate base, and a second time in another country where it is not carried on and which ought from that fact to be ignorant of it ".

These considerations however found no weight. Setting out from the principle that the patent duty is a tax on professional income and relying upon a jurisprudence which was authoritative, M. de SMET DE NAEYER made it clear that Belgian companies carrying on their



business or commerce abroad are not foreign entities. " They are ", he said, " civil persons of Belgian nationality, Belgian collective beings, and that is why we are justified in claiming from them a tax, not by virtue of the exercise of their profession, but on account of their profits—that is to say, their income. In exchange we give them civic existence, with its immense advantages, the protection of our laws, the assistance of our diplomacy, our consular body and our administration ".

His contention was supported with energy by M. Van den HEUVEL, Minister of Justice.

" In fine ", said this distinguished jurisconsult, " when one is a member of a national community, whether one be a physical person or a moral person, one is obliged to share in a certain measure in the expenses incurred for the common benefit and chargeable on all the members of the community. That is an absolutely logical and necessary conclusion.

" The companies which carry on their business abroad benefit from the advantages of our legislation and the good working of our public services, and it is that which necessitates their subjection to taxation. Still, it is undeniable at the outset that they benefit in a much less degree than the companies whose activity is entirely concentrated in our country. Is it not therefore logical to impose on them a less heavy burden of taxation.

" Government would run the risk of fettering the activity of our societies carrying on business abroad, whereas its duty is to cover them with a vigilant protection just as it does the others. In the national interest the Belgian societies which enter the lists in the great economic jousts of world competition should not be weighed down with too heavy a burden " (1).

The patent duty attached to foreign profits, reduced to 1 %, and exempt from provincial and communal additions, undoubtedly escapes from the criticism that it involved a repetition.

The law of September 1, 1913, which modified that of 1906 inasmuch as it subjected Belgian or foreign limited companies not to a continuance of the patent duty, but to a tax on income and real profit fixed at 4 % of the taxable profits, nevertheless maintained the principle contained in the law which it abrogated, on the one hand, by reducing, by a half the taxes for the portion of the income other than interests, premiums, or bonds, corresponding proportionately to the profits derived in distinct establishments situated abroad or in the colonies, and, on the other hand by exonerating this income from all provincial or communal additional taxation, which was equivalent to saying that profits from abroad were only taxed a quarter of the normal taxation.

The new legislation establishing income tax in Belgium made this principle general by extending it to individuals (Laws of October 29, 1919 and August 3, 1920, art. 2).

(1) Parliamentary annals, general discussion—sittings of December 21 and 22, 1905, January 31, February 1 and 2, 1906. Discussion of articles and amendments and first vote. Sessions of February 2, 7 and 8, 1906—Session of February 14, 1906.



Indeed, the tax is reduced from 10 % to 2 % : *a*, for real estate situated abroad ; *b*, for the portion of the income from shares which corresponds proportionately to profits derived and taxed abroad or in the colonies ; *c*, for all income from foreign securities and credits or deposits abroad (art. 14, 15, 17, 19 and 34 § 2).

On the other hand, the professional tax is uniformly fixed at 2 % for income earned and taxed abroad instead of varying, according to the case, from 2 to 10 % or from 5 to 10 % (art. 55 § 4).

If the legislator of 1906 did a logical and moderate work in reducing by *one-half* the patent dues on foreign profits, all the more did the new legislation give proof of moderation when reducing by one-quarter the normal taxes the tax due on income from abroad.

The tax on the *revenu global* or supertax alone affects income from abroad at the same rates as Belgium income. But this divergence from the principle shown above is justified, if one considers that the exemption of foreign income as regards the super-tax would be of a nature to favour the exodus of our capital. It must be noted, however, that this tax is provisionally not applicable to companies ; at present it only affects individuals.

Independently of the income tax there actually exist in Belgium a *special and extraordinary tax on war profits*, (Law of March 3, 1919) and a *special tax on exceptional profits*, (Co-ordinated laws of March 3, 1919, and July 2, 1920).

The first of these taxes applies to all persons who during the duration of the war, that is to say from July 1st 1914 to December 31, 1918 realised a profit of at least 20,000 francs, after deducting the normal profits the preceding period of equal duration.

The ratio of the tax is fixed at 20 % for the first 10,000 francs subject to tax and increases gradually by 1 % for each subsequent amount of 10,000 francs or portion of 10,000 francs, with a maximum of 80 % for the amount of taxable profit exceeding 600,000 francs. The tax is reduced to one-quarter for the profits taxed abroad or in the colony.

The second tax is applicable to persons whose exceptional profits earned during the year 1919 exceeded 10,000 francs. Exceptional profits are reckoned to be all those that were realised during the year 1919, deduction being made of a sum equal to twice the average annual pre-war profits.

The rate of the special tax is fixed at 10 % for taxable profits under 50,000 francs and increases gradually by 5 % for each additional 50,000 francs or portion of 50,000 francs; or alternatively, for each twentieth part of the capital invested at the beginning of the year or of the business term, the maximum rate of tax being 50 %.

The rate of tax is reduced to one-quarter for profits earned abroad or in the colony, though it cannot be lower than 4 % of such profits.

## France.

The fundamental principle underlying legislation on direct taxation levied by the French State consists in admitting, on the one hand, that each category of income should be subject to a special tax suited

to its particular character, and on the other hand, that each tax payer should be affected by the tax according to the importance of his entire income.

Hence the French system of direct taxation comprises : (1) a series of scheduled taxes applying separately to each source of income ; (2) a general tax regulated according to the total amount of the income possessed by each tax-payer.

The taxes to which income of the different categories are, subjected are the following :

- I. Land tax on property whether built upon or not ;
- II. Tax on income from securities and personal property ;
- III. Tax on industrial and commercial profits ;
- IV. Tax on profits from cultivation of the land ;
- V. Tax on earnings, indemnities and emoluments, salaries, pensions and annuities.
- VI. Tax on profits from non-commercial professions ;
- VII. Proportional royalties on mines.

**I. Land tax on property whether built upon or not.** — The land tax is intended to affect income derived from estates, whether built upon or not. It is levied in the commune where the estate is situated. The net income, which serves as the basis of taxation is determined by applying to the rentable value of the properties a deduction of 25 % for dwelling houses and commercial premises, 40 % for factories, and 20 % for properties not built upon.

In conformity with the stipulations of article 47 of the law of July 31, 1917, modified by article 1 of the law of June 25, 1920, the land tax is calculated by applying to the net income a tax of 10 %.

**II. Tax on income from securities and personal property (stamp duties, transmission tax).** — It is necessary to speak here not only of the tax on the income from moveable securities (law of June 29, 1872), but also of two other taxes which are levied on these securities in France, that is to say : the stamp duty, established by the law of June 5, 1850, and the transmission tax (instituted by the law of 23 June 1857).

*a) Stamp duty.* — The stamp duty may be collected either on delivery, or by subscription.

In the first case, the tariff is at present—for shares (*actions*) 1 % of the nominal capital in the case of societies, companies and enterprises the duration of which does not exceed 10 years, and 2 % in other cases for bonds (*obligations*) it is uniformly fixed at 2 % of the amount of the script.

In the second case, the subscription tariff, which must be contracted for the entire duration of the society, is fixed at 0,10 % of the nominal capital of each share issued or of the value of each bond (*obligation*) (Law of 25 June 1920, art. 48).

*b) Transmission tax.* — This tax is intended to apply to the circulation of moveable securities. The manner of its collection varies in accordance with the forms adopted for the transmission of the script. For those the transmission of which cannot properly take place without a transfer on the registers of the company, it is fixed at 0,90 % of the

negotiated value and is collected at the time of each transfer (law of March 29, 1914, art. 41). For the others it is converted into an annual obligatory tax of 0,50 % of the value of the shares and bonds, according to the normal rate of the preceding year, or in default of a rate, according to a declared valuation (law of June 25, 1920, art. 49).

The conversion of securities to bearer into registered stock is exempt from the tax (law of December 26, 1908, art. 5).

On the other hand, the conversion of registered stock into securities to bearer is subject to a tax of 2 % (law of June 25, 1920, art. 49), subject to repayment of the tax when the conversion has taken place in view of the sale of the deeds, and the re-investment of the proceeds has been effected in registered stock (law of July 31, 1920, art. 17).

c) *Income tax*.—The tax on income the rate of which was fixed at 10 % by art. 50 of the law of June 25, 1920, is applied in a general way to the products of moveable securities, and especially income from shares and the interest from bonds (*obligations*) (law of June 29, 1872, art. 1).

Such is in substance the fiscal regime applicable to French moveable securities.

In virtue of the rule of equivalence this same regime is in principle applied to the title deeds of foreign companies quoted or issued in France, but with the following differences :

1. The three taxes, instead of being levied on all the deeds of the company, are only required on the quota fixed by the Minister (decree of May 24, 1872, art. 3).

2. The stamp duty is always levied by subscription (decree of July 17, 1857, art. 11) ;

3. The annual tax of transmission is obligatory, without distinction between registered stocks or stocks to bearer (decree of July 17, 1857).

On the other hand, the title deeds of foreign companies not quoted or issued in France and which are thence not subject to the subscription régime cannot be mentioned on certificates or put on sale until the stamp duty of 2 % has been paid (law of March 29, 1914, art. 45). As to the tax leviable on the income from these deeds, the tariff of which has been raised to 12 % by art. 40 of the law of June 25, 1920, this is kept back by the bankers at the time of the payment of the coupons (law of March 29, 1914, art. 34). Foreign holders, that is to say those who are not of French nationality and who have their domicile and residence outside France, are exonerated from the tax on the sole condition of producing the affidavit ordained by the decree of June 21, 1914.

In view of the difference of regulations applicable to French and foreign title deeds it is of importance to determine the nationality of the deeds subject to the tax.

From the fiscal point of view this nationality is necessarily that of the issuing companies. The special provisions made for foreign securities therefore become applicable from the simple fact that these societies are foreign. In this respect authorities and jurisprudence are generally in accord in recognising that it is the seat of the headquarters which decides the nationality of the company, except in the



case where such headquarters are fictitious—that is to say, when the company in reality has its essential quarters in a country other than that indicated on its statutes. In this case it belongs to the country where such quarters are situated.

Taking the reverse case, by an application of the same principle, the fiscal regulations for French title deeds should govern all the deeds of a French company, even those which are issued abroad (1).

But whatever the nationality of the society may be, the principle dominating the question is that of the equivalence of the fiscal charges between the French securities and foreign securities circulating in France. This is set forth in art. 9 of the law of June 23, 1857 and art. 4 of the law June 29, 1872, and doctrine and jurisprudence are unanimous in recognising that the constant preoccupation of the legislator has been expressly to assimilate to French securities, as regards fiscal charges, all shares, bonds, share certificates of loans raised by societies, companies, enterprises of various kinds, corporations, towns, provinces abroad which are introduced into the country. It is in virtue of this principle that the decree of December 6, 1872 expressly extended the obligations which it imposed regarding the payment of income tax to foreign companies having property, either personal or real estate, situated in France.

It is certainly true that this may result in repetition between the taxes levied in the country of origin of the shares or securities and those which the French Treasury levies on the same securities or their coupons, particularly by virtue of art. 37 of the law of March 29, 1914. But up to the present no arrangement or convention with a view to avoiding double taxation has been arrived at between France and any other country with the object of regulating and harmonizing the fiscal legislation applicable in the various countries as regards moveable securities.

**III. Tax on industrial and commercial profits.**—Instituted by the law of July 31, 1917 (art. 2 to 15), this tax is payable by every individual and every company exercising an industrial or commercial profession in France. It is only applied however to profits from *enterprises situated in France*, those arising from establishments exploited outside French territory being excluded. The tax on industrial and commercial profits is for each tax-payer the object of a unique scale established at the headquarters of the direction of the enterprise or the different enterprises carried on by the interested parties, if the seat of the direction is in France, and at the principal establishment in the case of enterprises the direction of which has its headquarters outside France.

The tax is in principle calculated each year on the profits actually made during the preceding year, or in the course of the twelve months on which the last balance sheet was based, when that period does not coincide with the fiscal year.

(1) It is to be noted however that the laws of September 29, 1919 and of March 27, 1920 have exonerated from taxes leviable on French deeds, first, deeds of bonds issued abroad by départements or towns, and, secondly, bonds issued abroad by railway companies, which are considered of general public interest.

But the taxable profit can also be estimated by applying to the business turn-over for the year previous to that in which the tax is levied an appropriate coefficient representing the percentage of profit appropriate to the business or profession in question.

Taxation according to the amount of profits actually earned is only applicable in the case of companies who are obliged to communicate their balance sheets to the registration authorities, that is generally speaking, to limited companies and joint stock companies.

On the other hand, all other manufacturers and traders may be taxed as they prefer, either according to the amount of their real profits or according to a valuation of their profits taking their business turn-over as a basis. The coefficients which indicate the taxable profit, in relation to the amount of business done are drawn up for the various professions or different groups of professions by a Commission formed at the Ministry of Finance.

In the calculation of the tax the appropriate fraction for taxable profits not exceeding 1,500 francs is one-quarter ; the fraction for profits between 1,500 and 5,000 francs is a half ; and for any surplus profit the whole amount is subject to tax. The sums thus obtained are added together and to the figure resulting from this addition is applied the assessment of 8 % (art. 12 of the law of July 31, 1917, as amended by art. 1 of the law of June 25, 1920).

**IV. Tax on profits from cultivation of the land.**—The tax on profits from farming of the land, which was also provided for by the law of July 31, 1917 (art. 16 to 22) is intended to apply to the income which the working of rural properties brings to farmers, tenants sharing the crops with the proprietors, or the proprietors themselves over and above the income they would obtain from their estates if they merely rented them to tenants.

The return, which is made out in the name of the actual farmer, in the commune in which he was domiciled on January 1st of the year of taxation, includes a single assessment covering the whole of the property which *he works in France*.

For the purpose of assessing the tax, the profit derived from agricultural exploitation is considered to be equal to the rentable value of the ground exploited, multiplied by an appropriate coefficient (art. 17 of the law of July 31, 1917, as amended by art. 2 of the law of June 25, 1920). The coefficients applicable to every kind of agriculture are fixed each year by a Commission appointed by the Ministry of Finance.

The rate of the tax on agricultural profits is 6 %, but profits not exceeding 1,500 francs are entirely free of tax, while profits between 1,500 and 4,000 francs are only liable to tax at one half the standard rate (art. 18 of the law of July 31, 1917, as amended by the law of June 25, 1920).



## V. Tax on wages, indemnities and emoluments, salaries, pensions and annuities.

1. *Wages, indemnities and emoluments, salaries.*—Officials employés, workmen and those in receipt of salaries of all kinds are subject to the tax when the incomes they derive from their employment exceed the minimum fixed by art. 23 of the law of July 31 1917, as amended by art. 1 of the law of 25 June 1920, that is to say :

4,000 francs if the interested parties are domiciled in a commune of 50,000 inhabitants or less ;

5,000 francs if they are domiciled in a commune of more than 50,000 inhabitants or situated within a radius of 15 kilometres from the most populous part of a commune of more than 50,000 inhabitants ;

6,000 francs if they are domiciled in Paris or in a commune of the suburbs within a radius of 25 kilometers from the perimeter of the Paris *octroi* or city customs.

The tax is levied in the commune of the tax-payer's *domicile*. As the salaried classes of all categories are usually domiciled in the commune in which their work is situated, it follows that, except in very rare cases, the tax actually applies only to *salaries earned in France*.

The tax is payable each year in respect of the income of the preceding year, and in determining the basis of taxation the actual net amount of the wages, indemnities, emoluments and salaries is taken into account as well as the value of any advantage in kind that may be added, but not of family allowances or super-salaries.

For the purpose of levying the tax, the law requires every individual or company paying employés, workpeople, etc., to supply the administration during the course of the month of January of each year with a list of persons whom they have engaged during the preceding year, indicating the amount of salary paid in each case.

In assessing the tax no account is taken of that portion of the net income which does not exceed the appropriate abatement ; the portion of income between the such abatement and 8,000 francs is liable to tax at one half the standard rate, while the full rate is payable on the remaindes. The rate of the tax is 6 %.

### 2. *Pensions and annuities.*

The tax is also payable by every person who benefited during the course of the preceding year from a pension or annuity exceeding,

3,600 francs for pensions or annuities made up of successive periodical payments or given by employers to their employés as a reward for long service ;

2,000 francs for life annuities paid out of capital invested or acquired by way of legacy or donation.

Military pensions paid in virtue of the law of March 31, 1919 are totally exempt from the tax.

The tax is calculated by applying the rate of 6 % to that portion of the pensions or annuities which exceeds the minimum provided for each category, the portion between this minimum and 8,000 francs being only liable to one-half the standard rate (art. 23 of the law of July 31, 1917, as amended by art. 1 of the law of June 25, 1920).

#### VI. Tax on earnings from non-commercial professions.

In the category of earnings from non commercial professions are included the incomes from the liberal professions (medicine, the bar, etc.), professional incomes other than those derived from industry, commerce, agriculture, public and service private occupations; in fact generally speaking, income from all lucrative occupations or exploitations which are not subject to any other scheduled tax.

The tax on profits from non commercial professions is payable each year on the net profit earned in the preceding year.

It is established in the commune of the domicile of the tax-payer, who is in the first three months of each year bound to make a declaration of his taxable income.

The tax is calculated in the same way as for wages and salaries. The portion of the profit not exceeding the minimum of taxation indicated above for incomes of this category is entirely free of tax; the portion between this minimum and 8,000 francs is taxed at one-half standard rate, and the full rate is charged on the remainder. The present standard rate of tax is 6 %.

Incomes from offices and commissions (notaries, solicitors, summoning officers, etc), are taxed in the same manner as industrial and commercial profits, that is to say that the portion of income not exceeding 1,500 francs is counted for a quarter, the portion comprised between 1,500 and 5,000 for a half, the surplus for the whole, and a rate of 8 % is applied (art. 31 of the law of July 31 1917, as amended by art. 1 of the law of June 25, 1920).

#### VII. Proportional royalties on mines.

—The proportional royalty on mines is applied to profits derived by holders of concessions of mines situated in France from the exploitation of their concessions.

It is due each year upon the net product of the exploitation during the preceding year.

If the concessionnaires are shareholding societies or joint stock companies or with divided interest, the dividends of which are fixed by director's boards or by general meetings of shareholders, the net product, for the establishment of the dues is fixed in a lump at the amount of the sums distributed to the shareholders or holders of interests during the last working period which preceded the year of the taxation.

For the other concessionnaires, the net taxable product is made up of the surplus of the receipts actually realised over the expenses actually made during the preceding year.

The rate of the tax is 20 %, 15 % of which goes to the State and 5 % for the benefit of the commune (law of June 25, 1920, article 1.)

#### VIII. General income tax.

The general tax on income is payable every year by persons having their *residence habitually in France*, no matter what may be their nationality.

In principle the taxable income of each tax-payer includes the whole of his income and gains of all kinds, and from whatever source—that is to say, income derived from abroad as well as from France.

But as regards persons who, without being regularly domiciled in France have a residence here, the tax for which they are liable is not fixed, as in the case of other tax-payers, according to the total amount of their income without distinction of origin. By the terms of art. 11 of the law of July 13, 1914, their taxable income is fixed in a lump at a sum equal to seven times the rentable value of the habitation or various habitations they may possess in France, unless they have income having source in France (properties, exploitations, professions) and reaching a figure higher than that of the lump sum determined by the rentable value, in which case this figure is substituted for the lump sum valuation as the basis for taxation.

With a view to the assessment of the tax, tax-payers have to declare during the first three months of each year the amount of net income which they earned in the preceding year.

In the calculation of the tax, married tax-payers and widowers or widows with children, have a right to a special deduction of 3,000 fr. on their integral income. Those who have persons dependent on them (ascendants aged over 70 or infirm) also benefit by a deduction from their income. These deductions having been made, the remaining income is taxed in the following manner : the portion lower than 6,000 fr. is entirely free of tax, the portion between 6,000 and 20,000 is counted for  $\frac{1}{25}$ , the fraction between 20,000 and 30,000 francs for  $\frac{2}{25}$  and so on increasing by a twenty-fifth in series of 10,000 francs up to 100,000 francs, by the series of 25,000 up to 400,000 francs, and by series of 50,000 francs up to 550,000 francs,—the fraction of the income exceeding 550,000 francs being counted in its integrity. To the taxable income thus obtained is applied the assessment of 50 %.

This tax is subject to an increment of 25 % in the case of unmarried or divorced persons above the age of 30, and of 10 % in the case of tax-payers over 30 years of age who, having been married for two or more years, on January 1 of the year of taxation, have no children or other person dependant upon them. This increment is, however, not applicable in the case of the above-mentioned persons if they are war pensioners for a disability of not less than 40 %.

#### Great Britain.

*NOTE. — The following reply regarding taxation in Great Britain is given in very condensed form and is subject to a number of modifications and conditions. For a more complete and accurate statement of the matter reference should be made to the report submitted separately by the British National Committee (which will be found in Brochure No. 12.)*

Direct taxation in the United Kingdom may be sub-divided into :

1. Income Tax.
2. Super Tax.
3. Corporation Profits Tax.
4. Death Duties.
5. Land Tax.
6. Inhabited House Duty.
7. Excess Profits Duty.
8. Mineral Rights Duty.



The first four require more detailed notice ; the last five may be briefly summarised as follows :—

5. *Land Tax*—probably a relic of the feudal system. A fixed amount of Land Tax, called a quota, is levied upon every Land Tax parish. Land Tax payable on any property is deducted in arriving at the amount chargeable to Income Tax on that property. The yield of the tax is now inconsiderable.

6. *Inhabited House Duty*—charged by the House Tax Act, 1851 upon the annual value of inhabited dwelling houses in Great Britain. This duty is payable in addition to any Income Tax that may be chargeable in respect of the same property.

7. *Excess Profits duty*—imposed in 1915 (as a war measure) on profits made by businesses in excess of a certain standard. This Duty is to be withdrawn under the Finance Act, 1921.

8. *Mineral Rights Duty*—imposed in 1910 and levied on the rental value of all rights to work minerals. It is really an additional Income Tax on the particular form of income on which it is imposed.

With regard to the first four above-mentioned taxes :—

1. *Income Tax*. This Tax, first levied in Great Britain in 1799 (but not in Ireland, to which it was extended in 1853), has had a long and chequered history. Numerous modifications were made by various Finance Acts up to 1910, and again in 1915, 1916, and 1917. In 1918 the enactments then in force were sorted out and gathered up in the Income Tax Act, 1918. Further modifications followed in each subsequent annual Finance Act in accordance with changing conditions of industrial, commercial, financial and individual life.

The Income Tax Acts are not and never can be a stabilised and definite legal code based on a perfectly scientific conception of what an income tax should be, and the Royal Commission on Income Tax, appointed in 1919, which reported in 1920, came to the conclusion that it would be unwise, if not impossible, to cancel all previous Income Tax enactments and create a fresh code on a basis of pure reason. So far, then, as the United Kingdom is concerned, the Income Tax, like many another British institution (including the British Constitution) will go on being treated rather as a physical growth than as a logical abstraction.

The Income Tax Acts do not attempt to give one comprehensive definition of the income upon which the tax is charged. They divide such income into five classes or schedules, known as Schedules A, B, C, D and E ; and they define the contents of these five schedules, any income not falling within one of those five schedules being outside the range of the tax.

**Schedule A.**—Is chargeable on the annual value of “ the property in all lands, tenements, hereditaments, and heritages in the United Kingdom ”. Such lands, etc., are divided into three particular classes :

1. Such landed property as land, houses, business premises.
2. Certain tithes, manorial dues, etc. issuing out of land.
3. Business concerns such as mines, quarries, gasworks, iron-works, canals and railways.

**Schedule B.**—Is charged on the basis of annual value “in respect of the *occupation* of all lands, tenements, hereditaments and heritages *in the United Kingdom*” (unless the annual value of such occupation falls within Schedule A or Schedule D). Broadly speaking, Schedule B applies to the occupation of agricultural lands, woodlands, deer forests, parklands, etc.

**Schedule C.**—Is charged on the annual amount of all profits arising from interest, annuities, dividends and shares of annuities payable out of any *public revenue* in the year of assessment. Income from Consols and certain other Government Securities (home, colonial or foreign) falls within this schedule.

**Schedule D.**—Tax under this Schedule is charged in respect of—

a) The annual profits or gains arising or accruing—

I. To any person *residing in the United Kingdom* from any kind of property whatever *whether situate in the United Kingdom or elsewhere* ;

II. To any person *residing in the United Kingdom* from any trade, profession, employment or vocation, *whether the same be respectively carried on in the United Kingdom or elsewhere* ; and

III. To any person, *whether a British subject or not, although not resident in the United Kingdom*, from any property whatever *in the United Kingdom*, or from any trade, profession, employment or vocation, *exercised within the United Kingdom*, and

b) All interest of money, annuities, and other annual profits or gains not charged under the other Schedules and not specially exempted from tax.

**Schedule E.**—Is charged on the annual amount of income from every public office or employment or profit, and on the annual amount of every annuity, pension, or stipend payable by the Crown or out of the public revenue of the United Kingdom other than annuities charged under Schedule C. This Schedule comprises persons holding offices under the Crown, civil servants, officers in the Navy, Army and Air Force, etc.

It will be seen that the various schedules are not always logically differentiated from each other. It will also be seen that in none of the Schedules is any distinction drawn *in the words imposing the tax* between a British subject and a foreign subject. The distinctions drawn are ;

1. Between a person residing in the United Kingdom and a person residing out of the United Kingdom.
2. Between property in the United Kingdom and property out of the United Kingdom.
3. Between trades, businesses, professions, etc. carried on in the United Kingdom and trades, businesses, professions, etc. carried on out of the United Kingdom.

The position may be summarised thus :—

- (1) All annual income whether from property in the United Kingdom or from business or professions carried on in the United Kingdom is liable to Income Tax, no matter where the person resides to whom the income accrues.



- (2) All annual income accruing to a person residing in the United Kingdom is in general liable to Income Tax, no matter from what source it comes, no matter where that source may be.

These propositions are simple in themselves, but in practice they are occasionally complicated by the difficulty of deciding where a person resides. On this question of residence, four principles may be noted :

- (1) The question is not where a person is domiciled.
- (2) The question is not necessarily where a person has a residence but where he resides.
- (3) A person may reside in two or more countries at the same time.
- (4) The residence of a limited liability company depends largely on where the central management and control abide ; the situation of the registered office is only one element in the question.

With regard to the normal basis of assessment, it may be stated briefly that the profits of any trade, the profits of any profession, employment or vocation, income from stocks, shares and rents out of the United Kingdom (whether the income has been or will be received in the United Kingdom or not), and income from possessions (other than stocks, shares or rents) out of the United Kingdom (but only so far as it is actually remitted to the United Kingdom) are based upon the average of the three years preceding the year of assessment. Broadly speaking, in other cases assessment is made on the profits or income for the year of assessment or for the previous year.

2. *Super Tax*.—Is “ an additional duty of income tax ” on individual incomes exceeding a specified amount. It is charged wherever the income of the individual exceeds £2000, but the first £2000 of the income is exempt from tax.

Super Tax applies only to the income “ of any individual ” and not to companies and other bodies of persons. Of course, a partner in a firm is liable if his total income exceeds £2000.

Super Tax is treated as Income Tax in ascertaining relief to be given in respect of Dominion Income Tax and Super Tax.

3. *The Corporation Profits tax*.— Was introduced in the Finance Act 1920. It is an annual tax and is charged as from January 1, 1920.

The expression “ company ” in the Act is defined as “ any body corporate so constituted that the liability of its members is limited ”. “ British company ” means “ any company incorporated by or under the laws of the United Kingdom ”. “ Foreign company ” means “ any company that is not a British company ”.

The tax is charged on :—

- a) The profits of a British company carrying on trade or business, including the holding of investments.
- b) Profits of a foreign company carrying on any trade or business in the United Kingdom so far as those profits arise in the United Kingdom.

Certain classes of companies are for the present exempted from the tax, e. g., public utility companies, precluded by Act of Parliament from charging more than a fixed maximum price for services rendered, or from distributing more than a fixed rate of dividend, and building societies.

It will be noted that the words “ including the holding of invest-

ments " are added in the case of British holding companies but not applied to foreign companies. The omission may have the effect of placing foreign holding companies in a more favourable position than British holding companies.

Profits are calculated on the same broad basis as that adopted for Income Tax. The assessment is based on the actual profits of the company's accounting period, not necessarily the profits of the Income Tax year.

The full provisions as regards the computation of the profits and the allowance of deductions are set out in the complete British report, to which reference has already been made.

It should be noted that Colonial and foreign taxes (except Dominion Income Tax) are deductible from profits as a business expense.

The Commissioners of Inland Revenue are empowered to require returns of profits to be made to them within two months of the application, and the tax is assessed by then. Assessment is made on the Company in the case of a British company, while in the case of a foreign company assessment is made in the name of any agent, manager, or other representative of the company. Assessment may be made within three years after the end of the accounting period in question, and in the absence of a satisfactory return the Commissioners may make an assessment according to the best of their judgment.

4. *Death Duties* chargeable in relation to deaths occurring at the present time are three in number, viz :—

- (1) Estate Duty.
- (2) Legacy Duty.
- (3) Succession Duty.

(1) Estate Duty, which was established by the Finance Act 1894 succeeded three duties somewhat similar which preceded it, and are now, practically speaking, obsolete, viz., Probate Duty, Account Duty, and Temporary Estate Duty.

Estate Duty is charged upon the principal value of all property, real or personal, settled or not settled, which passes or is deemed to pass on the death of a person dying after August 1 1894.

The expression "deemed to pass" includes property which has, in fact, been parted with by the deceased by way of gift, property which comes into existence at his death, such as assurance policy moneys, and the like.

Certain foreign property is exempt from Estate Duty, e. g., immovable property situate outside of the United Kingdom, subject to certain reservations relating to property comprised in a British settlement. With regard to movable property situate out of the United Kingdom, in cases where the deceased was at the time of his death domiciled out of the United Kingdom, where the property consists of Bearer Securities which at the time of death were actually situate in the United Kingdom, or of Registered Securities, the register of which is located in the United Kingdom, Estate Duty is chargeable; but an important question is involved in cases of shares registered at branch registers of British companies.

Estate Duty is payable upon the "principal" value of the property, i. e., the price which, in the opinion of the Commissioners of

Inland Revenue, such property would fetch if in sold the open market at the time of the deceased's death.

Deductions are allowed for reasonable funeral expenses, certain classes of debts (including foreign debts), and foreign death duties payable in respect of foreign property.

(2) Legacy Duty is potentially payable in connection with the gratuitous acquisition of property subsequent to its passing on death. It is mainly governed by the provisions of the Legacy Duty Act 1796, while a definition of " legacies " is given in the Act of 1845 as gifts by will etc. payable out of the personal estate and death bed gifts.

Legacy Duty is not payable if the deceased is domiciled abroad at the time of death whether his property is situate in the United Kingdom or not..

Legacy Duties are cumulative, thus, for example, where a legacy is given to A for life with the remainder equally to B and C, both of whom predecease A, bequeathing all their property to D, the fund not only pays any legacy duty under the wills of B and C, but also legacy duty upon A's death, as falling into the respective estates of B and C.

A word is necessary as to the method of calculating Legacy Duty. Where a legacy is given immediately by the will to a legatee, the duty is payable upon its value at the date when it was paid to the legatee or set aside for his benefit ; but as to legacies given by way of annuity or to different persons in succession, etc., certain rules are laid down. For legacies given by way of annuity etc. the calculation is made in accordance with tables annexed to the Succession Duty Act 1853, and the duty is payable by four yearly instalments. Where legacies are given to purchase annuities, the duty is calculated upon the same tables, but is payable in one sum and not by instalments.

Exemption from Legacy Duty is granted in certain cases, especially where :—

- a) Property passes to the husband, wife, lineal ancestor or lineal descendant of the deceased except where the Estate exceeds £15000.
- b) Where the nett estate does not exceed £1000 in value and Estate Duty has been paid thereon.
- c) Where the deceased died domiciled abroad.

Specific legacies under the value of £20 are also exempt from Legacy Duty.

(3) Succession Duty was imposed by the Succession Duty Act 1853, and is in reality a duty complementary to Legacy Duty, for either of these two duties is potentially payable in connection with the acquisition of property subsequent to its passing on death. The effect of the Act is to charge Succession Duty upon :—

- a) Real and leasehold property situate in the United Kingdom passing under a will or intestacy.
- b) Real and leasehold property situate as above and passing under a disposition other than a will or intestacy.
- c) Personal property not liable to Legacy Duty; i. e., passing under a disposition other than a will or intestacy.

Where a testator dies domiciled abroad his personal property



situate in the United Kingdom (other than his real estate and leaseholds) is not liable to Succession Duty, but if a person domiciled abroad creates an English settlement by dead or will, then the administration of such settlement falls within the jurisdiction of the English Courts, and though Succession Duty may not be payable on the death of the testator, yet under a subsequent passing of the property under the settlement Succession Duty is payable.

Succession Duty is payable on the successor becoming entitled in possession to the property based on its principal value.

Exemptions from Succession Duty are granted in certain cases especially where :—

- a) Property passes to the husband, wife, lineal ancestor or lineal descendant of the deceased except when the Estate exceeds £ 15,000.
- b) Where the whole succession derived from the same predecessor and passing upon any death to any person does not exceed the value of £100.
- c) Where the property belongs to foreigners, except in two classes of cases already referred to.

#### Italy.

The general principles of the new system of direct taxation created by decree under law N° 2162 of November 24 1919, which will come into operation on January 1, 1922, are as follows :

All income existing in the State, to whomsoever it may belong, is liable to tax. Income " existing in the State " is defined as :

1. Incomes derived from land and buildings actually within the territory of the Kingdom.
2. Incomes derived from deeds admitted into the Kingdom, or which come from securities registered in the Office of Mortgages of the State.
3. Incomes derived from salaries, pensions, annuities, interests and dividends, paid in any place whatever and by no matter what person on account of the State, provinces, communes, and any other person or body, as well as on account of commercial companies and assurance societies who have their headquarters in the Kingdom.
4. Incomes derived from industry, commerce, professions and employments carried on in the Kingdom. (see art. 1 of the text of the law).

It will thus be seen that this fresh legislation constitutes a standard tax on income : which comprises and co-ordinates the three taxes already in force on land, real estate and income, these being all grouped into a single direct tax on income hence it goes back to the classic division of income from capital, income derived jointly from capital and work, and income which is the result of work.

#### Sweden.

Swedish taxation legislation rests on the following basis principles —

1. Self-declaration.
2. Attempts to arrive as near as possible at the actual income.
3. Progressive taxation rates.



4. Heavier taxation of income from capital than income derived from other sources. The latter principle has been applied in the form of a so-called capital tax in conjunction with the ordinary income tax.

At this stage it should be mentioned that an older system of income taxation still remains in force (beillvningen), but is at present only of interest as forming the basis of the municipal taxation. This older system is not progressive, being in part concerned with fictitious calculations of income, and does not refer to capital.

#### United States.

Apart from the Federal Government of the United States, each State of the Union has its fiscal system.

Up to the present time, the only State which has established an income tax, to our knowledge, is the State of New York. Seeing that the different States of the Union are sovereign in these matters and do not depend upon the Federal Government, it would be impracticable, if not impossible, unless there were a change in the Federal Constitution of the United States, to arrive at any rate for the moment, at a uniform rate of taxation for the different States. As regards the United States, we must therefore consider exclusively the federal fiscal laws of the country.

The Federal Government is limited by the Constitution as regards taxation. Up to a recent date, the Government had as revenue only the customs dues, the duties on tobacco, alcohol and other indirect taxes. The federal income tax has only existed for some few years, as have the taxes on changes of estate through death. Besides these, there exists a tax on the capital of companies.

### B. RESUME OF THE FISCAL LAWS IN OPERATION WITH ASSESSMENTS APPLIED

#### Belgium.

	<i>Nature of income</i>	<i>Nature of tax</i>	<i>Rate of tax</i>
Real estate income.....		Land tax.....	10%
Personal income	Income from title deeds issued by communes, or other public bodies or establishments and income from deposits at the General Savings and Superannuation Bank .....		
		Personal tax...	2%
	Other income .....	Personal tax...	10%
Professional income	Salaries and wages.....	Professional tax	2 to 10 %
	Other income.....	Professional tax	2 to 10 %*
Large incomes, real estate, personal, or professional, whether subject or not to the scheduled taxes.....		Supertax.....	1/2 to 30%

\* At the request of tax-payers, these assessments may be replaced by those of 5 to 10 % applicable by slices of taxable income corresponding to a twentieth of the capital invested in the businesses.

## France.

<i>Nature of income</i>	<i>Rate of tax</i>
Real estate income . . . . .	10%
Personal income . . . . .	10 or 12%
Certain movable securities ( <i>valeurs mobilières abonnées</i> ) are furthermore subject to a tax of transmission of 0.90% and to a stamp duty of 0.10% per subscrip- tion).	
Industrial and commercial profits . . . . .	8%
Profits from agricultural exploitations . . . . .	6%
Wages, indemnities, and emoluments, salaries, pensions, annuities . . . . .	6%
Profits from non commercial professions . . . . .	6%
Profits of concessionaires of mines . . . . .	20%
Integral income . . . . .	2 to 20%
and even 62.50 % in the case of certain majoration.	

## Great Britain.

(NOTE · Only the rates are summarised here owing to the complexity of the Income Tax legislation. No attempt is made to summarise the laws regarding taxation beyond what has already been done above, and for further information reference should be made to the full report of the British National Committee.)

1. *Income Tax.* The Finance Act 1920 made a radical alteration in the method of granting relief in favour of earned income as compared with investment income, and the method of graduating the burden of the tax according to the size of the taxpayer's income and his family responsibilities. The previously existing graduated scale is replaced by various reliefs.

Distinction is made in the Act between " assessable income " and "taxable income ".

I. "Assessable income " means in the case of earned income the amount of such income after deducting the amount of earned income allowance mentioned in para. II below, and in the case of other income the actual amount of such income. "Taxable income" means that part of the assessable income upon which income tax is actually charged, i. e., the assessable income less the various deductions referred to in paras IV to IX below.

II. Differentiation in favour of earned income is made by deducting one-tenth of the earned income in order to arrive at the assessable income. This deduction is made irrespective of the amount of the total income, but must not exceed £200 for any one individual.

III. Exemption from tax may be claimed where the total assessable income not exceed £135, or in the case of an individual whose wife is living with him £225.

Where the taxpayer is not totally exempt (see para. III) the following deductions may be claimed from the total assessable income in order to arrive at the taxable income irrespective of the amount of the taxpayer's total income.

- IV. Personal allowance may be claimed of £135 or in the case of an individual whose wife is living with him £225.
- V. Where a taxpayer's total income includes any earned income of his wife the personal allowance of £225 is to be increased by a sum equal to nine tenths of the amount of such earned income, subject to a maximum additional allowance of £45.
- VI. A deduction of £45 may be claimed for a widower's or widow's housekeeper taking charge of children.
- VII. A deduction of £45 is made to an unmarried taxpayer whose widowed mother lives with him to take charge of his young brothers and sisters.
- VIII. Deduction is allowable in respect of children under the age of 16 or if over that age and still receiving full time education to the extent of £36 for one child and £27 for each additional child.
- IX. A deduction of £25 may be claimed in respect of dependant relatives.
- X. The first £225 of taxable income is chargeable at half the standard rate, and the remainder is chargeable at the full standard rate whatever the total amount of the income. Under the present Finance Act the standard rate is 6/- in the £.
- XI. Some modification in the rate of tax is allowed in respect of life assurance premiums.

2. *Super Tax.* The rates of Super Tax in force for the year 1920-1921 are as follows :

		Rate in the £.	
		Nil	
In respect of the first £2,000 of the income			
In respect of the excess over £2,000		s.	d.
For the first £	500 . . . . .	1	6
— next £	500 . . . . .	2	0
— — £	1,000 . . . . .	2	6
— — £	1,000 . . . . .	3	0
— — £	1,000 . . . . .	3	6
— — £	1,000 . . . . .	4	0
— — £	1,000 . . . . .	4	6
— — £	12,000 . . . . .	5	0
— — £	10,000 . . . . .	5	6
For every pound of the balance of the excess . . . . .		6	0

3. *Corporations Profit tax.* The rate of Corporation Profits Tax is 5%, the first £500 of profit being exempt from tax, subject to the following important proviso, that the amount of tax payable in respect of profits of a British company does not exceed the amount represented by 10% of the balance of the profits of the period in question, after deducting from the amount of those profits interest paid out of those profits at a fixed rate on Debentures, etc. Example ,

Issued Capital £1,000,000 (£900,000 6% Preferences Shares)  
(£100,000 Ordinary Shares )

Profits £60,000.

*Under Proviso*

Profit . . . . .	£60,000
Dividend on Preference Shares . . . . .	54,000
	<u>6,000</u>
Maximum C. P. T. (10%) . . . . .	600
Available for Ordinary Shareholders . . . . .	<u>£5,500</u>

*Apart from Proviso.*

Profit . . . . .	£60,000
C. P. T. at 5% . . . . .	3,000
	<u>£57,000</u>
Dividend on Preferences Shares . . . . .	<u>£54,000</u>
Available for Ordinary Shares . . . . .	<u>£3,000</u>

4. *Death Duties.*

a) *Estate Duty.*

Estates under £	Rate per cent.
100	Nil
— £ 500 but over £ 100. . . . .	1
— £ 1000 — £ 500. . . . .	2
— £ 5000 — £ 1000. . . . .	3
— £ 10000 — £ 5000. . . . .	4
(and so on increasing 1% per £5000 up to £30000	
£ 40,000 £ 30,000 . . . . .	9
(and so on up to £ 70,000)	
— — £ 90,000 . . . £ 70,000 . . . . .	13
(and so on up to £150,000)	
— — £175,000 £150,000 . . . . .	17
(and so on up to £250,000)	
— — £300,000 . . . £250,000 . . . . .	21
(and so on up to £500,000)	
— £ 600,000. . . £ 500,000. . . . .	25
— £ 800,000. . . £ 600,000. . . . .	27
— £1,000,000. . . £ 800,000. . . . .	28
— £1,250,000. . . £1,000,000. . . . .	30
— £1,500,000. . . £1,250,000. . . . .	32
— £2,000,000. . . £1,500,000. . . . .	35
— over £2,000,000. . . . .	40

Special regulations are applied to meet the various cases of Service men killed or seriously incapacitated by the war.

b) *Legacy Duty* (since Finance Act. 1910).

Husband, wife, and lineal ancestors and descendants of the deceased . . . . .	1
Brothers and sisters of deceased, their descendants, husbands or wives . . . . .	5
Other persons . . . . .	10



c). *Succession Duty*. Neglecting elaborate provisions relating to cases where succession arose before 30 April 1909 the rate is the same as in the case of Legacy Duty.

**Italy.**

Italian legislation classes incomes subject to the normal tax as follows, according to whether they are derived from one or the other of the categories previously enumerated :

*Category A-1*. Income derived from all investment of capital, except real estate or land, and especially perpetual income derived either from income from mortgage or by private deed, contracts of loans, verbal or in the form of drafts and shares, bonds or deeds of loans.

*Category A-2*. Income from capital invested in real estate.

*Category A-3*. Income from capital invested in land, so long as the arrangement of a transitory character indicated in the last paragraph of art. 7 of the law referred to on page 22 exists.

*Category B*. Income derived from the exercise of an industry or business of any kind in the production of which both capital and work are jointly employed. This category also includes income indicated in the preceding paragraph, when the period of five years has passed during which the arrangement of a temporary character indicated in the last paragraph of art. 7 remains in force.

*Category C*. Income derived from work, of the exercise of any profession or art or service rendered ; income arising from spontaneous gifts, in payment of any service, and income derived neither from capital nor work (annuities and pensions). The entire amount of this last class of income is reckoned if at the moment when he enters into possession of it the person who possesses the annuity or pension has not yet reached sixty years of age. The amount and the cost are reduced by two thirds or by a half if at the moment cited above the age of the person exceeds sixty or seventy years.

*Category D*. Income derived from wages, pensions and revenues paid by the State, the various State administrations, provinces or communes, as well as by the personnel of municipal administrations, bodies and societies authorised to exact taxes, by public philanthropic societies, public instruction institutions, and scientific bodies to which art. 33 (category 18) of the statute referred to above is applicable.

**Taxation on industrial establishments.** Under the taxation system at present still obtaining, income from real estate was taxed by deducting from income of a personal character derived the from establishment that portion which had borne the burden of the tax on real estate, so that it might be presumed that the landed estate yielded an autonomous income, independently of the income of a personal character whereas in reality the income was unique. At present, with the unification into one of the three taxes on income, the decree aims at unifying taxation from all income derived from the establishment by classing it in category B.

*Regime of stock Companies.* The decree introduces a radical innovation as regards the regime of taxation of industrial income earned with stock companies. The valuation of such income, according to the existing law on income from personal wealth was made from the results of respective balance sheets, with the exclusion of numerous expenses and losses which the law or jurisprudence judged not to be deductible, though they were in fact supported. The result was continual disputes, to which the new regime has put an end.

It has consequently been established that henceforward the amount of income in fact distributed or apportioned as interest on the capital or dividend, and assigned to the members, directors or third parties under any other title or denomination, may be reckoned as taxable income.

To prevent the new system, which is so correct and simple, from penalizing the Treasury, it has been determined that all sums or repayments divided, over and above the repayment of the capital at the time of liquidation, may be taxable, in the same way as the assignment of bonuses and the increase of capital in the form of an increase in the nominal value of the shares or the gratuitous distribution of new shares with the same precautions as the Treasury adopts for cases of liquidation of companies.

*Application of the tax.* The normal tax is charged at the following rates on the netamount of the private incomes submitted to it :

- 18% on incomes from capital of category (A).
- 15% on incomes from capital and labour (category B).
- 12% on incomes from labour (category C).

9% on incomes from labour so far as it is attributed to the State, the provinces, communes and other bodies cited in the last paragraph of article 3 (category D).

*Complementary tax on the total income.*

To the income which applies to the above incomes, in the manner already indicated, is added another tax of a personal and progressive character which affects income earned in Italy or which is spent there and is registered in the name of a citizen or foreigner residing in Italy.

This tax does not affect enterprises, but individuals enjoying incomes of whatever nature they may be. Such incomes are accumulated in such a way as to establish the degree of taxable capacity of each individual.

Special deductions and rebates are accorded to those who have the care of families, while coefficients of increase are introduced for bachelors and those who have not done military service.

The complementary tax is levied on the taxable income calculated on the basis of the above rules at the following rates.

On an income of	1,500	lire	a tax of	1%
—	5,000	—	—	1.60%
—	10,000	—	—	2.28%
—	20,000	—	—	3.08%
—	50,000	—	—	4.33%
—	100,000	—	—	6.10%

On an income of	300,000	lire	a tax of	8.36%
— —	500,000	—	—	12.43%
— —	1,000,000	—	—	16.80%
— —	2,000,000	—	—	22.69%
— —	2,500,000	—	—	25 %

The immediate rates are fixed by special tables.

#### **Sweden.**

The direct general state taxation is made up of the so-called income and capital tax.

Liable to pay those taxes in Sweden are :

a) Swedish citizens who are or should be registered in Sweden ;

1. For all income derived from sources in Sweden or in other countries ;

2. For all capital (property) owned by them whether in Sweden or in other countries.

b) Swedish citizens who are not, and are not required to be, registered in Sweden ;

1. For income derived from Swedish sources and

2. For capital invested in Sweden.

c) Citizens of other countries ;

1. For income from real estate in Sweden or from business carried on in Sweden.

2. For salary or pension paid from Sweden,

3. For dividends on shares in Swedish companies,

4. Citizens of other country who is residing in Sweden for other purposes than that of prosecuting studies, and for so long a period that he is required to register there shall also pay taxes for all other income earned by him from abroad and used by him in Sweden.

A citizen of another country is taxed for capital only when same is invested in Sweden.

The latter stipulation signifies that the capital shall be invested in Swedish establishments or in land or in shares in Swedish companies. If such foreign citizen, on the other hand, should own Swedish bonds or have money on deposit in Swedish banks he is consequently not taxed on capital even if he resides in Sweden.

For Swedish private citizens the liability to pay taxes commences at an income of 10 kronor ; for all others liable for taxation at an income of not less than 100 kronor.

For every taxable person or object the income from every source of income is added together, and, in doing this, reductions may be made for such disbursements as have been necessary for earning the income, while observing that no reductions are allowable for any that may be characterized as living costs. From the amount obtained in this manner the taxpayer may deduct.

1. all taxes paid during the year except taxes paid to the state,
2. all interest paid for which reduction has not already been made,
3. loss on business for which reduction has not already been made,
4. periodic relief which has been paid out during the year,
5. insurance premiums up to an amount of 200 kronor ; the latter applying only to Swedish taxpayer, however.



In assessing tax on capital the following method is employed. The capital assets of the taxpayer with the exception of personal household articles are added up. The debts are then deducted from such amount. The remaining amount is assessed as capital in such a way that 1/60 of same is added to the income. From the amount obtained after adding up the net income and the said fraction of the capital a further deduction is made for taxation; in the first place, the so-called locality-relief, of which the size is dependant on the locality where the taxpayer resides, and, in case the taxpayer is married or has children, a certain allowance for wife and each child below age. The remainder after all allowances and reliefs have been deducted is termed the taxable amount.

The tax is assessed progressively according to the size of the income rising with a fixed standard rate, so that larger incomes are proportionately heavier taxed on account of the permitted allowances and reliefs. The lowest standard rate of progression is 3 percent. The highest allowable rate of progression is 12 percent of the taxable amount. This percentage is reached at a taxable amount of 1.227.000 kronor.

In making up the budget for each year it is decided how many percent of the before-mentioned standard rates (from 3% to 12%) should be assessed for taxes. For this year the assessment rate has been fixed in 175 percent of the standard rates, and the same percentage is proposed for next year, which means in other terms that the tax on the largest incomes may rise to 21 percent of the taxable amount.

The direct local taxes : —

1. Tax on real property according to the taxable value assessed on same (object tax);

2. a non-progressive tax which only applies to certain income, but not to capital. No deductions are allowed for taxes paid. Income from real property is as a rule not included in taxpayer's income. In assessing this tax the locality-relief and allowance for wife and children under age are deducted in about one-half of the amounts allowed by the state taxation. Liable to pay this income assessment are the following :—

1. Swedish citizens who are or should be registered in Sweden for income derived from Sweden or from other country ;

2. Swedish citizens who are not, and are not required to be registered in Sweden :

for income from real property in Sweden or from business carried on in Sweden ;

3. A citizens of another countries .

for income from real property in Sweden or from business carried on in Sweden.

A citizen of an other country who is residing in Sweden in such a manner that the ought to be registered there is liable to pay this tax also for other income earned by him in Sweden or derived from Sweden, and for income derived from abroad which he has brought into and used in Sweden.

Foreign companies and other non-Swedish legal bodies are liable



to pay tax on income from real property in Sweden, from business carried on in Sweden, and for dividends on shares in Swedish companies.

3. A local progressive tax, levied on approximately the same principles as the direct state taxation (income and capital tax).

The liability to pay such tax is the same as for the state taxation.

#### United States.

Every citizen and every resident, that is to say, every person domiciled *de facto* in the United States, as well as every limited company established in the United States, is liable to income tax on his total net income, except income arising from landed estate situated outside the United States.

Foreigners not residing in the United States, as well as foreign limited companies, are liable to the tax on all income derived from the United States.

For individuals, citizens residing in the United States or foreigners residing in the United States, the normal or fixed tax is 4% of the net taxable income, up to an income of 4,000 dols.

For foreigners not resident in the United States the normal or fixed tax is 8 %.

For American or other limited companies, the fixed tax is 10 %. (There are no progressive taxes for limited companies).

Companies whether private combinations or limited joint stock companies are not subject to income tax. Individuals forming part of these bodies should include in their declarations the portion of their income derived from these companies.

As to the tax on the capital of companies, this is based upon the average capital of every society working in the United States.

The assessment is 1 % and foreign companies are only liable for the portion of their capital employed in the United States.

Apart from the normal fixed tax on income, there is a progressive tax. The assessment of this progressive tax on income is as follows :

- 1 % on incomes between 5,000 and 6,000 dollars.
- 2 % on the next 2,000 dollars.
- 3 % on the next 2,000 —

And the assessment increases in this manner by 1 % on each additional amount of 2,000, up to a total net income of 100,000 dollars.

For portions of income above 100,000 dollars the tax is :

- 52 % on the next 50,000 dollars.
- 56 % on the next 50,000 —
- 60 % on the next 100,000 —
- 63 % on the next 200,000 —
- 64 % on the next 500,000 —
- 65 % on the portion of income exceeding 1,000,000 dollars.

**C. STATEMENT SHOWING THE FISCAL REGULATIONS IN  
FORCE IN THE FOLLOWING CASES :**

*1. Nationals living in the country and deriving income from abroad.*

**Belgium.**

Real estate income derived from abroad is subject not to the 10 % land tax, but to the personal tax (2 %).

Personal income from securities issued by the State or public institutions are subject to the same tax as if they were gained in Belgium (2 %) ; as regards other personal income, the assessment of the tax is 2 % (instead of 10 %).

As regards professional incomes, a tax of 2 % (instead of 2 to 10 %) on wages and salaries and other professional incomes.

**France.**

Nationals living in the country and possessing incomes earned abroad are in a general way exempt from all scheduled tax in relation to such income.

If their habitation in France constitutes their principal establishment, they are liable to the general tax in accordance with their entire income from all sources, including from that moment those of foreign origin. If, on the other hand, this habitation only forms a secondary residence and if they have their real domicile abroad, they are liable to the general tax under the conditions foreseen by article 11 of the law of July 15, 1914, that is to say ; as has been shown above, either according to an income equal to seven times the rentable value of their residence in France, or according to the amount of their residence in France, or according to the amount of their income of French origin, that earned abroad being excluded.

**Great Britain.**

Nationals living in the country and deriving income from money made abroad. The income is liable to taxation subject to special provisions by which relief is granted under certain conditions in respect of tax paid on the same source of income in another part of the Empire. (See particularly the Full Report of the British National Committee).

**Italy.**

If nationals living in the country and having income earned abroad produce and spend such income abroad, they are exempt from the tax just as if they were foreigners. If income earned is spent in Italy, it becomes liable to tax.

**Sweden.**

Swedish citizens residing in Sweden are liable to pay taxes on all income and on all capital (property).

**United States.**

Only incomes derived from *real estate* situated outside the United States are free of liability to income tax.

2. *Nationals living abroad and deriving income from money made abroad.*

**Belgium.**

Real estate incomes are in this case subject to the personal tax of 2 % as well as personal incomes. Tax of 2 % also on professional incomes.

**France.**

Nationals living abroad and having incomes earned abroad are not liable to the payment of any tax in France on account of such income, if they do not possess a habitual residence there. If, on the other hand, they have a residence there they may be subject to the general tax in accordance with the regulations mentioned in the first case.

**Great Britain.**

Normally no tax is payable.

**Italy.**

If the nationals live abroad and collect incomes earned abroad, they do not pay tax.

**Sweden.**

Swedish citizens residing abroad are not liable to pay taxes in Sweden for income in other countries or for capital in other countries.

**United States.**

Income earned abroad by nationals living abroad (except income derived from landed estate situated abroad) is taxed.

3. *Nationals living abroad and deriving income from money made in the Country.*

**Belgium.**

These are subject to the same taxes as Belgians living in Belgium.

**France.**

Nationals living abroad and enjoying income earned in the country are in France liable to the scheduled tax concerning such incomes. If they have no habitation in France, they escape the general tax. If, on the other hand, they possess a residence there, they are for the purposes of imposing this tax subject to the regulations shown in case No. 1.

**Great Britain.**

Tax is paid on income "from any property whatever in the United Kingdom or from any trade profession or vocation exercised within the United Kingdom."

**Italy.**

Nationals living abroad and collecting incomes earned in the country must pay the tax.

**Sweden.**

Swedish citizens residing abroad are liable to pay taxes on income derived from Sweden and on capital invested in Sweden.

**United States.**

The federal income tax is levied on incomes earned in the United States by nationals living abroad.

4. *Foreigners living in the country and deriving income from money in the country.*

**Belgium.**

They are subject to the same taxes as the nationals.

**France.**

Foreigners living in the country and enjoying incomes earned in the country come under the scheduled taxes in proportion to such incomes.



They are, moreover, liable to the general tax either based on the whole of their income from whatsoever source if their habitation in France constitutes their principal establishment or under the conditions set out by art. 11 of the law of 15 July 1914 (see case No. 1) if they possess a habitation abroad constituting their real domicile.

#### **Great Britain.**

Foreigners residing in Great Britain are treated in the same manner as British subjects.

#### **Italy.**

Foreigners living in the country and in receipt of income earned in the country must pay the tax.

#### **Sweden.**

Citizens of other countries residing in Sweden are liable to pay taxes on income earned in Sweden and on capital invested in Sweden.

#### **United States.**

Income earned by foreigners living in the United States are liable to the income tax.

5. *Foreigners living in the country and in receipt of income earned abroad.*

#### **Belgium.**

They are under the same regulations as the nationals.

#### **France.**

Foreigners living in the country and in receipt of income derived from abroad are from this fact in the same situation as nationals provided for in the first case, and the general tax may be applied to them in the same way as with these latter.

#### **Great Britain.**

Tax is paid by foreigners in the same manner as it is by British citizens.

**Italy.**

Foreigners living in the country and in receipt of income earned abroad pay the tax only on the portion which they make use of in the country.

**Sweden.**

Citizens of other countries residing in Sweden are not liable to pay taxes on other income derived from other country than such as they have brought into Sweden and have consumed there.

**United States.**

They are subject to the income tax by reason of their residence in the United States.

6. *Foreigners living abroad and in receipt of income earned in the country.*

**Belgium.**

They are subject to the same taxes as the nationals.

**France.**

The same as in case No. 3.

**Great Britain.**

Income tax is chargeable at the full standard rate on income derived from this country, no allowances or deductions being granted.

**Italy.**

The same as in case No. 3 (the tax levied).

**United States.**

They are subject to income tax,

#### D. EVENTUAL REDUCTIONS ACCORDED TO THESE DIFFERENT CATEGORIES OF TAX PAYERS.

##### Belgium.

Co-ordinated laws of October 29 1919 and August 3 1920.

ART. 13. § 1. Delay or moderation of the *land tax* may be granted on the proposition of difference between the assessed income of the estates and their effective income realised during the year of taxation, in so far as this difference amounts to at least 10 % of the assessed income.

§ 2. A reduction may also be granted when, the duly certified expenses of upkeep and repairs exceed for a period of ten years the quota fixed by article 5 § 1.

ART. 22. The proprietor, usufructuary, leaseholder or tenant of mortgaged real estate are exonerated from the tax on real estate income for such estate to the extent of the personal tax levied on the interest of the loans guaranteed by such mortgages.

ART. 41, § 1. Deduction is made from supertax in respect of the tax corresponding to the portion of gross income imposed in accordance with article 36, not exceeding the minimum fixed as follows :

2.100 francs in communes of less than 5.000 inhabitants ;

2.400 francs in communes of 5.000 to 15.000 inhabitants exclusively ;

2.700 francs in communes of 15.000 to 30.000 inhabitants exclusively ;

3.000 francs in communes of 30.000 to 60.000 inhabitants exclusively ;

3.600 francs in communes of 60.000 inhabitants and more.

This scale be revised by royal Decree in case of changes in economic conditions.

ART. 42. For each member of the family who is dependent on the taxpayer on January 1st of the year of taxation, the minimum exempted in virtue of article 41 is increased by a tenth.

This increase is doubled for the wife and for each child over 8 years of age at the date beforementioned.

If the taxpayer is a widower or widow, this increase is doubled for each person dependent on him or her.

##### France.

Independently of the reductions which are made in the taxes on industrial and commercial profits, on agricultural profits, on wages and salaries, pensions and annuities, and the general income tax, resulting from reductions and deductions on the bases cited above, taxpayers benefit on their taxes as well as on the land tax from reductions that are calculated in proportion to the families dependent on them, under the conditions indicated hereafter,

For every tax-payer whose total net income, looked at from the point of view of the assessment of the general tax, does not exceed 10,000 francs, account being taken of the deductions for situation and family dependent on him, the rate of the reduction is 7,50 p. c. for each person dependent upon him up to the second and 15 p. c. for each of the other persons.

For each tax payer whose total net income, after the same deductions have been made, exceeds 10,000 francs, the rate of the reduction is 5 p. c. for each one of the three first persons dependent upon him and 10 p. c. for each of the others, although the amount of the reductions per person dependent on the tax-payer may not exceed 300 francs for each scheduled tax and 2,000 francs for the general tax.

These reductions may be accorded to foreigners in the same way as to nationals.

With regard to the Stamp Duty on movable securities, the principle on which the Stamp Subscription Duty is paid during the whole life of the Company admits of one exception : Article 24 of the Law of June 5, 1850, dispenses with the payment of Stamp Subscription Duty on Securities of French corporations, companies or undertakings :

1. In liquidation or in bankruptcy.
2. Which, subsequent to the arrangement of subscription, have for a period of two years paid no dividend or interest to their shareholders. After these two years (known as years of approbation) the payment of the tax is suspended as long as its failure to pay dividend continues, and until one year's dividend has been paid.

The decrees of March 28, 1868, and January 25, 1899, extended this exemption to shares of foreign companies who can prove that during the two previous years they were able to pay neither dividend nor interest.

#### **Great Britain.**

Normally no differentiation is made between British citizens and foreigners.

An exception is made in regard to the allowances and reliefs mentioned on page 24. These reliefs and allowances are granted to individuals who are resident in the United Kingdom, whether they are foreigners or British subjects. A foreigners residing abroad is not entitled to those reliefs, but a British subject residing abroad is entitled to them.

*(See full Report of the British National Committee, paragraph. 19)*

#### **Italy.**

No reductions are accorded to the different categories of tax payers above mentioned. The only persons exempt from the normal and complementary tax are the members of the Royal family, diplomatic and consular representatives of foreign countries, etc. All other exemptions are connected with objects and things and not with persons.



### Sweden.

The question of deductions in the tax has already been referred to. It will be seen that foreigners occupy a more favourable position in some respects than Swedes as regards the capital tax. Foreigners, on the other hand, enjoy no relief for residing in a more expensive district or locality, and are granted no allowance for wife and children, and are not allowed to make deductions for insurance premiums paid.

### United States.

The reductions accorded to the different categories of tax-payers are the following :

1,000 dollars for bachelors ;

2,000 dollars for married persons or heads of families *plus* 200 dollar for each child aged under 18 years or for every person dependent on the tax-payer who is incapable from physical or moral reasons of supporting himself.

Foreigners not residing in the United States benefit from these exemptions only in cases where the law of their own country accords a similar exemption in favour of the United States citizen not living in the said foreign country, and on condition that the foreigner not resident in the United States makes a declaration as regards all his income derived from the United States.

As regards the normal tax only, dividends received from American companies (which are themselves already subject to the income tax) are not counted.

In determining the net income of the tax-payer, deduction is made from the gross income of the other taxes paid by him either in the United States or abroad (except income tax and extraordinary taxes on war profits).

All income tax paid abroad by the tax-payer who is a citizen of the United States or by an American limited company on income derived from abroad is credited or deducted from the same due in the United States. This is equally the case for a foreign person residing in the United States, on condition that the law of the country of this foreigner allows a similar deduction in the case of citizens of the United States living in the said foreign country. This applies since the year 1919.

Consequently in both these cases double taxation is avoided.

NOTE. The law has not yet arranged for the deduction of the French tax due by the American citizen domiciled *de facto* in France on the basis of seven times the amount of his rent, this latter tax not being levied on income earned in France.

## E. EVENTUAL DIFFERENCES IN THE LAWS AS APPLIED TO INDIVIDUALS AND COMPANIES, etc.

### Belgium.

ART. 35, § 3. As regards companies possessing a juridical personality, the tax is regulated in proportion to their profits, as diminished by the income distributed or subject to the personal tax, like income from invested capital.

At the request of the tax-payer the tax may be imposed by a graduated scale on the taxable income corresponding to a twentieth of the capital invested at the beginning of the business year. In this case the assessment is fixed at 5 % for the first twentieth, and increases gradually by one per cent for each succeeding twentieth, with a maximum of 10 %.

Under existing legislation supertax is not charged on companies.

### France.

As the legislation regarding the scheduled taxes makes no distinction concerning the personality of the tax-payer, corporate bodies (i. e. companies, groups, etc.) are for the establishment of these taxes subject to the same rules as individuals.

On the other hand, the general income tax is only payable by individuals and does not affect corporate bodies, but the members of companies of any kind must include their portion of profits in the working of these companies in the statement of their personal income for the purpose of assessment of general tax.

### Great Britain.

The principal distinctions are as follows :

1. An individual is liable to Supertax, a company or firm is not.
2. An individual is entitled to certain allowances, e. g. an allowance of 10 % in respect of earned income ; life insurance, personal and family allowances.
3. A limited liability company is liable to Corporation Profits Tax, but there is no liability in the case of an individual, or a firm or company whose liability is not limited.
4. Companies, which do not die, are, of course, outside the scope of the Death Duties.

### Italy.

Article 21 of the new law prescribes that the tax payable by limited companies and by joint stock companies must be based on the amount

of the profits really distributed as interest on the capital, dividends or for any other reason to the shareholders, directors or third parties.

In the case of foreign companies authorised to operate in the kingdom, the income is determined on the basis of the annual balance sheets by deducting from the gross profits all the expenses and losses specified in articles 18 and 19. It must however be noted that the same procedure is exacted with regard to Italian companies which according to their statutes are not obliged to distribute their profits, or which have distributed no profit for a period of 13 consecutive years, or which have distributed profits which on account of the capital paid in were lower than the legal assessment of the interest.

The complementary tax on income is imposed only on physical persons (article 67), the normal tax having on the contrary an impersonal character. Thus the normal tax can only touch income earned in the kingdom. The complementary tax, however, may be extended beyond the confines of the State when it is a question of income derived from abroad and enjoyed by persons who are Italian tax-payers.

#### **Sweden.**

Swedish limited companies occupy a special position in the matter of taxation. They are thus not subject to assessment of the capital tax. The rate of assessment for Swedish limited companies, moreover, is not determined by the total amount of the income, but by the relation of the income to the share capital of the company. The basic standard rate for companies is 1.25 percent, when the assessed income does not exceed 4 percent on the capital, and may be increased to not more than 12 percent when the income amounts to 150 percent or more on the capital.

Taxes are levied both on the limited companies for their entire income, and on the shareholders for the dividend they have collected. The part of a company's income which is not distributed to the shareholders but is funded is subject to a special tax.

Certain official and semi-official institutions, and also benevolent establishments and scientific bodies, as well as small savings banks are exempted from taxation.

#### **United States.**

The differences in the laws as applied to individuals and companies are as follows :

Companies are only liable to the fixed tax of 10 %, and not to the progressive tax.

American companies are taxed on all their income (except such as is derived from landed estate situated abroad), and foreign companies earning profits in the United States are subject to the same tax in the same way as foreign individuals not living in the United States.

## F. RESUME OF THE FISCAL LEGISLATION FOR TAXES ON INHERITANCES ESPECIALLY FROM THE POINT OF VIEW OF DOUBLE TAXATION.

### Belgium.

The laws in Belgium regulating succession duties are those of 27 December 1817, 17 December 1851, 30 August 1913, 11 October 1919, and 16 August 1920.

The following is the resumé of this legislation :

1. *Basis of the tax* : The tax on inheritances is divided into.
  1. The succession duty properly so called ;
  2. The tax on transfer through decease.

II. The succession tax properly so called is raised on the value, after deduction of the debts, of all that is obtained or acquired from the inheritance of an inhabitant of the Kingdom.

The tax on transfer through decease is established on the value, without deduction of debts, of real estate property situated in the Kingdom, obtained or acquired as property or interest through the decease of someone who is not accounted an inhabitant.

One who has established his domicile or the seat of his fortune in the country is considered to be an inhabitant.

The taxes thus established are levied respectively, according to the bases indicated, on the value of the property of an absent person whose presumptive heirs, beneficiaries, or legatees have been put into provisory or definitive possession, or whose coming into possession of the same is, in default of a judgment, taken for granted by acts.

III. *Exemptions* : The inheritance received by an heir in direct line or by a husband or wife having common dependants if the heir's or husband or wife's net portion does not exceed 2,000 francs, is exempt from succession duty.

If the net portion inherited exceeds 2,000 francs but does not exceed 5,000 francs, a sum of 2,000 francs remains exempt from duty ; if it exceeds 5,000 francs, but does not exceed 10,000 francs, a sum of 1,000 francs is deducted from the portion.

Also all that goes to other heirs, legatees, or beneficiaries in inheritance, the net amount of which does not exceed 2,000 francs, is exempt from succession duty. If the net amount exceeds 2,000 francs but does not exceed 5,000 francs, a sum of 2,000 francs is exempt from the tax ; if it exceeds 5,000 francs but does not exceed 10,000 francs a sum of 1,000 francs is exempt from duty.

IV. *Assessment of the taxes*.: The rate of succession duties and tax on transfer through decease is graduated according to the degree of relationship ; it is proportional to the sums and values and is arranged on a graduated scale. This tariff is fixed by article 19 of the law of 11 October 1919 ; it was increased by 50 p. c. by the law of August 16 1920

V. *Method of collecting* : The tax is collected in accordance with a declaration containing all the elements necessary for the collecting,



and this declaration should be handed in according to the particular case :

1. At the succession duty office of the juridical district where the deceased had his last domicile by the heirs and the legatess, in the case of inheritance tax.

2. At the bureau in the juridical district where the property is situated, by the heirs, legatees or donees of real estate situated in the kingdom, in the case of the mutation tax through decease.

The time allowed for the deposit of the declaration is : if the decease took place in Belgium, six months ; in any other part of Europe seven months ; outside Europe, eight months, dating from the day of decease.

The inheritance tax leviable in consequence of the decease of an inhabitant of the kingdom is levied on the value of the property situated abroad even if such property is subject to taxation in the country in which it is situated.

Landed estate in Belgium left by a person who is not an inhabitant of the kingdom is subject to the mutation tax, no account being taken of the circumstance that such estate is liable to a tax in the country in which the defunct was domiciled.

#### France.

The inheritances of foreigners are in France subjected to different regulations according to whether the author of the inheritance was or was not domiciled in the country. This is an essential distinction resulting from article 4 of the law of August 23 1871.

When the deceased foreigner had no domicile in France, the tax is due simply on French property ; therefore it does not touch the inheritance as a whole, and the whole of that portion of the heritage which is situated in a foreign country escapes the French tax in virtue of the principle of the territoriality of the tax.

If this tax touches French property, that is to say, such as is assessable in France, it is because according to the general terms of the organic law of 22 frimaire year VII on registration, the duty on transfers through decease applies to all property which *throughout the whole extent of French territory*, is the object of a mutation of this character, whatever may have been the domicile and the nationality of the deceased.

There is no difficulty as regards the landed estate and the corporeal moveable property, the position of which is easily defined. As the taxation laws in principle form a part of the realty statute, they may without exceeding the limit of the normal exercise of the sovereignty of the state touch all such property as of is to be found in France.

As to incorporeal property (credits, State incomes, Stock exchange securities, etc.) the question is more delicate.

According to the principles of French law, sanctioned by constant jurisprudence, incorporeal values should be considered as having their place of assessment at the tax payer's domicile. Hence if the debtor (State, public establishment, society or individual) is domiciled in France,

the incorporeal value exists in France, and consequently, in virtue of the general rule, it is liable to the tax in the same way as real estate or corporeal personal property in France.

The conclusion would evidently be quite different if as with certain foreign legislations (United States, for instance) it was admitted that the corporeal values are domiciled at the domicile not of the debtor but of the creditor, because then one would have to conclude that the transmission takes place on foreign soil when the deceased creditor is domiciled outside the frontier.

If the foreign subject who is the author of the inheritance was domiciled in France with or without authorisation, the tax is leviable on the French property in virtue of the rules above mentioned and on the foreign incorporeal securities in virtue of article 14 of the law of 23 August 1871. This inheritance is, finally, treated like that of a French person domiciled in France.

Doubtless the principle admitted for French incorporeal values should logically be applied to foreign incorporeal securities. That would lead to considering them as property assessable abroad since the debtor is domiciled abroad, and they would thus escape the action of the French law (Comp. Cass civ. 12 January 1869, 3 judgments, D. P. 69-1-294). But the legislator has decided otherwise, first of all in 1850 (law of 18 May 1850, art. 7) as regards the inheritances excised by the French law, then in 1871 (law of 23 August 1871, art. 3 and 4) for these very inheritances and for those of foreigners domiciled in France.

To sum up, the inheritance tax applies in the inheritance of a foreigner domiciled abroad exclusively to French securities, and in the inheritance of a foreigner domiciled in France, all French and foreign securities that are bequeathed, with the single exception of real estate and corporeal property situated outside French territory.

As to the liquidation of the taxes applicable in France to foreign inheritances, it takes place according to the general rules and according to the tariffs ruling at the day of decease, it being noticed that these tariffs have been changed latterly by the law of June 25 1920 (art. 29 to 35. )

In the same way as regards the taxes applying to personal securities, no international arrangement or arrangement special to a given State has as yet been taken with a view to the unification of the principles of taxation of property and securities transmitted through decease in the various countries. France treats the inheritance of foreigners by treating foreign property according to the rules of French legislation, without troubling about the consequences which may result in certain cases from the point of view of double taxation.

The only conventions that have been concluded in this matter between France and Russia (1st April 1874) and with Great Britain (15 November 1907) tend simply to institute measures of reciprocal surveillance and control with a view to permitting each country interested to combat fraud and to assure to each side so far as it is concerned the levying of the mutation taxes through decease according to the rules of its internal legislation. But nothing has been done to settle the legal conflicts which may take place not only from the point of view of double taxation but also as regards hereditary evolution itself.

There is here a very regrettable lacuna when one thinks that the inheritance taxes in France go up to as much as 80 % .

### **Great Britain.**

(This question is dealt with in detail in the full Report of the British National Committee, page 60).

As regards the estates of persons domiciled in the United Kingdom at the time of their death, British subjects pay Estate Duty upon practically all property wherever situate, with the exception of foreign immovable property not being the subject of British settlement. Certain relief, is, however, granted, e. g., in the case of duty paid on property in a British possession, whereby double taxation within the Empire is avoided.

The Commissioners of Inland Revenue are empowered to allow against the value of any foreign property liable to duty the amount of death duty paid thereon in a foreign country.

As regards the estates of persons not domiciled in the United Kingdom, where such person is a Colonial, his Colonial estate would claim relief of British death duty paid against duty paid on the same property in the Colony.

The relief granted on the property of foreigners has already been referred to above, see page 20.

In order to avoid the extension of the practice of a country charging higher death duties on the property, situate in that country, of foreigners, than on the property of their own nationals, a convention was come to, in 1899, between Great Britain and the United States, providing that any real or personal estate situate within the territories of one of the Contracting Parties, and devolving by death on the citizen or subject of the other, should be liable only to such death duties as citizens or subjects of the country of the situation of the property would have been liable to pay had they in fact been the actual beneficiaries. (Treaty Series N° 17. 1900 Cmd. 356).

It is understood that conventions to avoid dual death duty taxation, owing to the adoption of different systems of taxation, have been come to between Germany and Greece in 1910, and between Russia and Denmark, and Russia and Greece, both in 1913.

Arrangements have been made with the French Government whereby the relief conferred under the Death Duties (Killed in War) Act 1914, is applied to the estates of officers and men in the French Army and Navy killed in the War, who have died possessed of property in the United Kingdom.

### **Italy.**

*General principles.* I.—Inheritances which take place of property which has already been subjected to another inheritance tax, during a period of four months, will only be subjected to a supplement corres-



ponding to the difference which there will be between the first tax and the following ones, when these latter are higher, so that in the period in question, the property itself can only be subjected to the tax which is the highest in amount among those that can be applied to various inheritances.

Natural children who have been legally recognised will for the application of this tax be brought into line with legitimate children.

Adopted children will pay half the tax which they would have had to pay without adoption according to the degree of relationship between them and their adoptive parent.

II.—In transmissions of property taking place by testamentary succession the value of the taxable property to the heirs should be deducted from the value of the property bequeathed, and the tax on the property bequeathed is liquidated at the cost of the legatee and according to the personal relations that existed between him and the testator. In any case, it is within the right of the administration to exact from the heirs the payment of the tax on the property bequeathed.

III. If in transmissions of property through decease the value of the property is not specially mentioned in the inventory or any other legally recognised document, such property will be estimated at 5 % of the total value of the real estate, of the personal property and the value of the inheritance in specie, unless there is proof to the contrary.

But there shall not be comprised in the presumed property the grains, wines, hay or other provisions, nor shall there be included among the moveable property the jewels, horses, carriages of equipment relating there to, or anything constituting a commercial or other resource. These objects shall be declared according to their commercial value. Collections of pictures, statues, porcelains, books, engravings, medals, etc provided they are not intended for commercial purposes, shall not be reckoned for the application of the tax, whether there be an inventory or not. Industrial and commercial shares which have not been quoted on the Stock Exchange or which have ceased to be quoted, should be calculated in the declarations according to the commercial value at the time of transmission.

IV. As regards credits that have expired or not as to the existence of which there has been legal proceedings at the time of the inheritance, as well as those as regards which there exists a doubt whether they can be exacted, the levying of the tax shall remain in suspense but must be paid as soon as the credits are exacted.

V. All debts which are certain and recoverable in specie which figure on a public act or in a judicial decision before the date of succession or debts figuring in a private document registered before the inheritance may be deducted from the total amount of the heritage and subject to the transmission tax through decease.

Deduction shall be made of the funeral expenses of the testator according to local custom, as well as of the medical expenses of the last six months of illness, if such expenses are properly justified. Deduction shall also be made from the total amount of the heritage of commercial debts entailed in the kingdom, when their existence is justified by



commercial books of the debtor and if they are kept in the form prescribed by the law.

VI. Debts concerning especially real property outside the kingdom shall not be deducted in cases of heritage where the inheritance consists of the said real property and other property of the same character in the State, but debts specially concerning property in the State will be deducted.

VII. The annexed tariff is applicable in all cases of transference gratuitously on account of decease or by free act between living persons, as well as to transmissions of usufruct which shall take place from the day of the publication of the present arrangements.

VIII. Property of a net value not inferior to 200.000 lire that has fallen by heredity or been bequeathed after the day of publication of the present text to persons related in collateral line, to the author of the inheritance or to strangers who at the time of the transference, are individually owners of patrimonies of a net value not less than 200.000 lire valued in conformity with the two last paragraphs of the present article, are subject independently and over and above the taxes already mentioned at the tariff for inheritance taxes, to a supplementary inheritance tax of 5 % of the value of the property bequeathed, if it is comprised between 200.000 lire and 400.000 lire ; of 8 % if it is comprised between 400.000 lire and 600.000 lire, and 10 % if it is above 600.000 lire.

The heirs or legatees who are the object of the present article and who have sons living may benefit for each of those sons by a reduction of 1/10 on the supplementary inheritance taxes.

The valuation of the net personal patrimony of the heirs and legatees as regards the application of the supplementary inheritance taxes to the portion received as heritage or legacy, is made according to the rules established by the registration law for the valuation of real and personal estate, a sum valued at 6 times the net income of the personal property inscribed on the registers in the name of the heir or legatee of category B being added.

The Government may, if it wishes, give orders for the valuation of the said personal patrimony to be made in conformity with the legislative dispositions which have been adopted for the application of the tax on patrimony, or any other arrangement which will permit the valuation in question to be made according to a fixed regulation.

IX. In transferees of real estate gratuitously, the Administration of the Finances shall notify to the tax payer the value which it attributes to such property, if it considers that the declared value is lower by more than a tenth that which this property had from the commercial point of view on the day of the transference.

In transferees from commercial or industrial firms of shares in industrial and commercial companies and of ships, gratuitously or not, as well as real estate with payment of expenses, in the concessions and fusions of societies, in divisions of real estate, the Administration will notify the value estimated by it, if that which has been declared or the price or the equivalent agreed on between the parties is lower by more than 1/8.

*Taxes on Donations, on Inheritances and Transmission of Usufruct as Regards the Taking Possession of Ecclesiastical Benefices*

DEGREE OF RELATIONSHIP		FOR EACH INDIVIDUAL HEREDITARY QUOTA OR LEGACY OR DONATION													
between the authors of the inheritances and donations and the heirs, legatees and donees.		Proportional tax per hundred lire													
		Class I from L. 1 to L. 1,000	Class II from L. 1 to L. 5,000	Class III from L. 1 to L. 10,000	Class IV from L. 1 to L. 50,000	Class V from L. 1 to L. 50,000	Class VI from L. 1 to L. 100,000	Class VII from L. 1 to L. 250,000	Class VIII from L. 1 to L. 500,000	Class IX from L. 1 to L. 1,000,000	Class X from L. 1 to L. 2,000,000	Class XI from L. 1 to L. 5,000,000	Class XII from L. 1 to L. 10,000,000	Class XIII from L. 1 to L. 20,000,000	Class XIV from L. 1 to L. 20,000,000 and over
1.	Between ascendants and descendants in direct line and to the first degree . . . . .	1.	1.50	2.	2.50	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
2.	Between ascendants and descendants in direct line, after the first degree . . . . .	1.	1.50	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	13.	15.
3.	Between married couples . . . . .	4.	4.50	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	16.	18.
4.	Between brothers and sisters . . . . .	7.	8.	9.	10.	11.	12.	13.	14.	16.	18.	20.	22.	24.	26.
5.	Between uncles and nephews . . . . .	9.	10.	11.	12.	13.	14.	16.	18.	20.	23.	26.	29.	32.	35.
6.	Between great-uncles and nephews and cousins german . . . . .	11.	12.	13.	14.	15.	17.	19.	21.	24.	27.	30.	33.	36.	40.
7.	Between other relatives after the fourth degree and up to the 6th degree . . . . .	16.	17.	18.	20.	22.	24.	26.	28.	30.	32.	35.	38.	41.	45.
8.	Between other relatives after the 6th degree, allies and foreigners, including moral bodies other than those indicated in art 9 . . . . .	18.	19.	20.	22.	24.	26.	28.	30.	33.	36.	39.	42.	46.	50.
9.	Transference by succession in favour of institutions indicated by art 4 of the Royal Decree of 27 Sept 1914 n° 1042 . . . . .														
10.	Transmission of usufruct for taking possession of ecclesiastical benefices or charges. . . . .														
Constant proportional tax of 5 0/0.															
Constant proportional tax of the 3 0/0.															

The provisions of this article are applicable to transferences from the day of publication of the present text.

X. The time allowed for the notification provided for in the preceding article is one year from the payment of the tax or in the case of a suspension accorded according to the prescriptions of article 9 of the law of January 23 1902, N° 25, text " C " and article 1 of the viceregal decree of 15 July 1915, N° 1153 of the date of the act of suspension.

If the notification is not made by the interested party, it can be repeated during the month following the expiry of the delay of a year, as has been indicated above.

In the three months dating from the single year of the 2nd notification, the tax payer by whom it has been made, must make known to the administration whether he accepts the value demanded or whether he wishes that a judicial estimation shall take place, at the same time in this case designating his own expert, if the declared value exceeds 10,000 lire.

At the expiry of this three months delay, the value demanded by the administration shall remain definitive, if such modification has not been made.

XI. If the tax payer refuses to accept the value demanded, preferring to have a judicial estimation, the administration must during the three months from the receipt of the notification bring suit before the President of the Tribunal in order to obtain the order of valuation. If the time expires without suit being brought all litigation is suppressed and the value already taxed will remain definitive.

#### Sweden.

Special duties are levied upon inheriting property.

Those liable to pay duty on this head are divided into four separate classes.

*The first class* comprises the descendants of the deceased.

*In the second class* are comprised brothers and sisters of deceased and their descendants, and academies, scientific bodies and benevolent institutions.

*The third class* is composed of communities.

*The fourth class* comprises all others.

The duties are progressive in each class according to the value of the estate.

In *class I* amounts below 1.000 kronor are exempted. The duty rates commence thereupon with 3/4 percent, rising to 10 percent, which is reached at an amount of 1.000.000 kronor.

In all the other classes the dutiable amount commences at 200 kronor, and rises in *class II* to 15 percent which is reached at 1.000.000 kronor ; in *class III* to 15 percent at as low an amount as 240.000 kronor ; and in *class IV* to 20 percent which is also reached at 240.000 kronor.

Inheritance duty is paid in Sweden :

1. on property inherited from Swedish citizen, or citizen of other

country who was registered in Sweden at the time of his death, but not in the case of the latter when the property consists of landed estate, where inheritance duty is not levied on such property situated in Sweden.

2. on property inherited from other foreigners, when it is composed of real property in Sweden, or property which forms part of the construction or working capital of establishment in Sweden, or shares in a company operating in Sweden.

In case of *gifts* and *donations* the same regulations apply in the main as for inherited property, with the following exceptions, however :—

1. Gifts to communities, academies and other scientific bodies, and to benevolent institutions are exempted.

2. Gifts of furniture and other household goods are exempted, as well as gifts to museums or for the embellishment of public places.

3. Monetary gift of less than 3.000 kronor is exempted. If any one has received more than 3.000 kronor from one and the same person as a gift in the course of two years the whole amount shall be liable for duty, however.

Swedish citizens shall be liable to pay duty on gift when it consists of real property in Sweden, and personal property wherever it is to be found, and

Citizens of other countries who are registered in Sweden, when it consists of real or personal property within the country.

Other foreigners are consequently exempted from paying duty of gifts.

#### United States.

A progressive tax is levied on the net assets of every inheritance and not on the portion of each heir or legatee. The degree of relationship of the heir or legates consequently does not matter in determining the said tax.

This tax is as follows :

1 % of the net amount of the inheritance if it is lower than 50.000 dollars.

2 % of the net amount of the inheritance exceeding 50.000 dols, but not exceeding 150.000 dols (that is to say, on the 100.000 dollars over and above the first 50.000 dols).

3 % on the next \$ 100.000

4 % on the next \$ 200.000

6 % on the next \$ 300.000

8 % on the next \$ 250.000 ;

10 % on the next \$ 500.000 ;

12 % on the next \$ 500.000 ;

14 % on the next \$ 1.000.000 ;

16 % on the next \$ 1.000.000 ;

18 % on the next \$ 1.000.000 ;

20 % on the next \$ 3.000.000 ;

22 % on the next \$ 2.000.000 ;

25 % on the net amount of the inheritance exceeding \$ 10.000.000.



Contrary to the case of the income tax, the nationality of the party in question is not taken into account.

When the party is domiciled de facto in the United States, the entire inheritance (except landed estate situated abroad) is taxable.

When the party is not domiciled de facto in the United States, the American assets (including the securities, shares or bonds) only are taxable.

#### REDUCTIONS

The inheritance of persons residing (domiciled de facto) in the United States is exempt to the extent of a sum of \$ 50.000.

The principal exemptions are the following :

1. Funeral expenses, expenses of liquidation and arrangement of the inheritance, and debts of the deceased (reduced to a quota in the case of the American assets of an inheritance of a person domiciled de facto abroad).
2. All sums or property which the deceased may have inherited from another person during the five years preceding his decease.
3. The amount of any legacy made for the benefit of the United States or any State, territory, or any other political subdivision in a public interest, as well as any legacy to any philanthropical society, either religious, scientific, literary, or an educational institution or other similar work (limited to legacies to American works in the case of the inheritance of a person domiciled de facto abroad).

**G. SUMMARY OF PENALTIES PROVIDED AS REGARDS FRAUDULENT DECLARATIONS OF TAX BOTH ON INCOMES AND ON LEGACIES.**

**Belgium.**

*Income Tax.*

Combined Laws of October 29, 1919 and August 3, 1920.

ART. 56. In the absence of a declaration or of corroborative documents, or when it is presumed that there is serious inaccuracy, the Administration will be able to establish on its own authority the tax payable by the tax payer based on the estimated amount of his taxable revenue calculated in accordance with those paid by other tax payers or with the general estimate of his resources or with special information collected in this connection.

ART. 57. In the absence of a declaration or if the declaration is recognized to be inaccurate and in so far as the non-declared revenue exceeds a tenth of 10.000 Frs, the tax is doubled on the part of the non-declared revenue.

*Tax on Legacies.*

In order to repress fraud in questions of inheritance taxes, the law ordains penalties for delay in the depositing of declarations, for omission of property, for insufficiency of valuation, for false declaration on debts, etc. Moreover, it authorizes the State to have recourse either to certain specified presumptions, or to expert valuation, or to all the methods of common law, with the exception of the oath, to prove these irregularities.

Attention is particularly called to the provision of the 3rd paragraph of article 42 of the law of 11 October 1900 (19), reading as follows :

" Without detriment to the legal arrangements relating to fiscal fines, if it is discovered that an infraction of the laws on the taxes of registering, transcription or succession have been committed with a fraudulent intention, the author or authors thereof may be prosecuted by the Public Treasury, and may be condemned, without prejudice to any damages and interests towards the Administration of Finances to imprisonment of from eight days to two years, and a fine of 100, to 10.000 francs, or to one of these penalties only.

The law besides contains various provisions tending to assure the recovery of the tax on sums, title deeds or personal securities deposited in banks, with an exchange agent, a business representative, or any other, or which may be placed in a safe rented from a physical or moral person who is in the habit of letting safes. It also notifies the right of the financial administration to require from public establishments, associations, societies, change agents, etc., all information considered necessary for the purpose of reaching a just assessment of the tax.

No alleviation or restitution of the taxes may be made except in the case that the law has been improperly applied.

The taxes must be paid within four months counting from the date of the expiry of the delay fixed for the deposit of the declaration.

To guarantee the payment of the inheritance tax, the Public Treasury possesses a general privilege on all personal property left by the deceased. Further more, all personal property situated in Belgium depending on an inheritance is legally hypothecated, counting from the day of decease, with a view to assuring the recovery of these same taxes, as well as the mutation tax through decease. Finally, without detriment to these guarantees, every foreigner who is heir to a personal inheritance is obliged to find security for the payment of the taxes, expenses and penalties which he may incur towards the State.

## France.

### *Income tax :*

Penalties applicable in cases of fraud in declarations concerning income tax.

Frauds committed in declarations regarding the taxes on income may be followed by fiscal penalties and by criminal proceedings.

The fiscal penalties consist in an increase of the taxes corresponding to the amount of income or profits dissimulated by the interested parties. The assessment of this increase is 100 % as regards the tax on industrial and commercial profits and 400 % as regards profits from non commercial professions and the general income tax. Furthermore the amount of the increases carries with it the addition of 25 %.

The criminal penalties are applicable to tax payers who have committed dissimulation or attempted dissimulation having a fraudulent character. In this case the delinquent is liable to a fine of at least 1.000 francs and at most 5.000 francs, with the addition of 20 decimes and without detriment to the rights of the Treasury. In case of a second offence within five years, the delinquent becomes liable to imprisonment for a year at the least and five years at most, and he may be deprived in whole or in part during five years at least and ten years at most of the civic rights described in article 42 of the Penal Code.

### *Mutation taxes through decease :*

As regards the mutation taxes through decease, art. 39 of the law of 22 frimaire year VII, modified by art. 12 of the law of 8 April 1910, runs :

“ The penalty for omissions which shall be recognised to have been made in the declarations shall be a tax over and above that which is due for the objects omitted. The penalty shall also be a tax over and above for insufficiencies found out in the estimation of declared property, but it shall only apply when the insufficiency is equal or superior to a tenth of the declared value.

“ In all cases where omission or insufficiency in the declaration bears the character of a fraudulent dissimulation, the penalty shall be a double tax over and above that which shall be due for the objects omitted or insufficiently valued. ”

The law of April 18 1918 edicted new measures against fiscal frauds, especially as regards the opening of safes or compartments of safes rented in whole or in part by the defunct or his associate, and sealed envelopes or closed cash boxes left on deposit.

The declarations must be terminated with an affirmation. Every fraudulent affirmation is punished with the penalties provided for by art. 366 of the penal code ; these penalties increase with the fiscal penalties.

An inexact indication in a declaration of sucession of the degree of relationship of the number of children of an heir, donee or legatee is liable, as a fine, to a double tax over and above that which is due as a supplement.

### **Great Britain.**

#### *1. Income Tax.*

Provisions against evasion fall into two classes :

- A. Criminal Proceedings.
- B. Pecuniary Penalties.

A. *a)* Under Section 5 of Perjury Act 1911 any person knowingly or wilfully making a false statement, not on oath, is liable to imprisonment with or without hard labour for any period not exceeding two years, or to a fine, or to both ;

*b)* Section 227 of Income Tax Act 1918 imposes a penalty not exceeding six months imprisonment with hard labour for false returns or claims ;

*c)* Apart from the Perjury Act, the delivery to a Surveyor of Taxes of a false document is a misdemeanour of Common Law.

B. Pecuniary Penalties may be recovered within three years after they are incurred. They are as follows :

##### *a)* Omission to make a return :

- I. £20 and treble duty if proceedings are taken before the general commissioners, or £50 if proceedings are taken in the High Court, I. T. A. 1918, section 107 (1).
- II. Taxpayers not already assessed may be surcharged. I. T. A. 1918, section 126 (1).
- III. Treble duty may be imposed by the Commissioners, I. T. A. 1918, section 146.

##### *b)* False Return :

- I. Similar penalties to those in (*a*) (I) above.
- II. Treble duty if assessment has not already been charged ; if assessment is insufficient treble duty on the deficiency. Income Tax Act, 1918, section 132.
- III. The Commissioners may impose treble duty as in (*a*) (III) above.



c) False claim of abatement or other relief :

- I. £20 and treble duty on the whole income as if such claim had not been allowed, I. T. A. 1918, section 30.
- II. The penalty for aiding and abetting a false return is £50 for each offence.

2. *Corporation Profits Tax.*

The penalty for failure to comply with the provisions of this Tax is a fine not exceeding £100, and a further fine not exceeding £10 a day for every day during which the offence continues after conviction.

The penalty for worded any fictitious or artificial transactions with a view to evading payment of the Tax is a fine not exceeding £500.

3. *Death Duties.*

A. Estate Duty. Any person who wilfully fails to deliver an account or deliver and verify a statement of particulars required is liable to pay £100 or a sum equal to double the amount of the Estate Duty: Ref : Finance Act 1894, section 8 (6).

B. Legacy Duty. (Legacy Duty Act, 1796). The penalties are as follows :

- I. For payment or receipt of a legacy liable to duty without a stamped receipt — 10 % on the value of the property.
- II. Every legacy receipt must be dated on the day of signing and duty paid within 21 days under a penalty of 10 % on the amount of duty ; if the duty is not paid within 3 months the penalty is 10 % on the amount or value of the legacy.
- III. Executors must transmit particulars and pay duty on legacies bequeathed to them within 14 days of retainer : penalty treble value of the duty.
- IV. Penalty for altering receipts after assessment with intent to defraud is £500.

C. Succession Duty. (Succession Duty Act 1853). Persons made accountable for payment of Succession Duty in the case of wilfully neglecting to give notice of succession or deliver a full and true account are liable to penalty of 10 % on the amount of the duty, for every month of such neglect.

**Italy.**

Income tax and inheritance taxes.

1. Every person not making a declaration on the time provided for by this law concerning income normally taxable or integral income taxable with a supplementary tax, will be liable to a fine equal to 1/4 of the State tax due according to the final verification.

2. Every person declaring an amount lower by 1/3 of that fixed by the final verification will be liable to a fine equal to 1/4 of the diffe-

rence between the tax due and that which would have been levied according to the declaration made.

No fine will be inflicted for differences of income, or net capital, which shall be due to expenses, losses, annual charges or other deductions not admitted.

Fines will also not be inflicted in case the income is of the category A-I and is proved by the documents necessitating the registration.

3. If the declaration concerns income of the categories A-2, A-3, B or C subject to the normal tax, or income subject to the supplementary tax, fines will not be inflicted if the income verified in the end does not reach 2.000 lire or 20.000 lire respectively, or if the difference described in the preceding article is inferior by  $\frac{1}{5}$  to the tax due to the State.

4. The tax payer who without valid or justified pretext does not present himself or is not represented by a legal representative at the Government Bureaux of the Estimation Commission or the State Commission of the 1st class within the required time, may be liable to a fine of 50 lire.

The directors of Public Bureaux should, at the request of the Office of State taxes, within 20 days, give extracts from the registers, copies, or extracts from documents held by them under penalty of a fine of 100 lire, in case of default.

Tax payers refusing to supply the information described in paragraph 6 of article 48 are liable to a fine varying from 100 to 1.000 lire.

A similar penalty may be inflicted on the tax payer who refuses to allow the premises where he carries on his commerce or industry to be visited, or refuses to allow his account books to be examined.

5. In case the declaration prescribed by article 56 of the law on the taxes of registration of 20 May 1897. No 217 are found to be false, the persons making the declaration shall together be liable to pay a fine equal to six times the tax which this false declaration tried to defraud, and this without detriment to the legal proceedings provided for on this account in the Penal Code.

6. The heirs, legatees, and donees who in the prescribed time shall not have made a declaration of the property transmitted to them on account of decease, shall pay as a supertax a sum equal to  $\frac{6}{10}$  of the tax due.

This supertax may never be lower than 12 lire.

In case of the omission of a declaration in the case of transference due from decease, a supertax equal to the amount of the tax due on the omitted objects, increased by  $\frac{1}{5}$ , shall be levied.

NOTE. It is to be noted that nothing in this law takes account of double taxation, although in article 6 mention is made of real estate abroad.

#### Sweden.

Concerning income and capital tax the duty of making declaration devolves on all whose incomes have amounted to not less than 600 kro-

nor, and on foreign taxpayers at an income of 100 kronor. As a check on the figures in the declarations employers are also required to furnish information of wages paid out by them to each wage earner in their employ, and limited companies in addition, the dividends collected by every shareholder.

The inheritance duties are based on the statement of the assets and liabilities of the estate that according to law must be submitted for probate.

Anyone who has received a gift of a dutiable amount is required to make a special declaration in regard to same.

False declaration is punished by the imposition of a fine, the amount of which is fixed in a certain relation to the amount of taxes the declaration failed to account for.

### **United States.**

Any individual or society who omits to pay the income tax or who makes a false declaration or who does not give the information required by the law, is liable to a fine not exceeding 1,000 dols.

Any person or society who voluntarily refuses to pay the tax or who voluntarily refuses to make a declaration or to furnish the information asked for, or who voluntarily tries to avoid the payment of the tax is liable to prosecution and to be condemned to pay a fine not exceeding 10,000 dols, or is liable to imprisonment for a period not exceeding a year, or may even be liable to both these penalties. The costs of the prosecution entailed will fall on the tax payer.

The taxes on changes in inheritances are due within the year of the decease, but the treasury may prolong the period by three years from the date of the decease.

In case the tax is not paid within eighteen months following the decease, interest begins to be due (at the rate of 6 p. c.) dating from the day of expiry of the year of the decease.

Any person knowingly making a false declaration is liable to a fine not exceeding 5,000 dols or imprisonment for a period not exceeding one year, but may also be liable to both penalties.

Any person not making a declaration or not furnishing the required information is liable to a fine not exceeding 500 dollars.

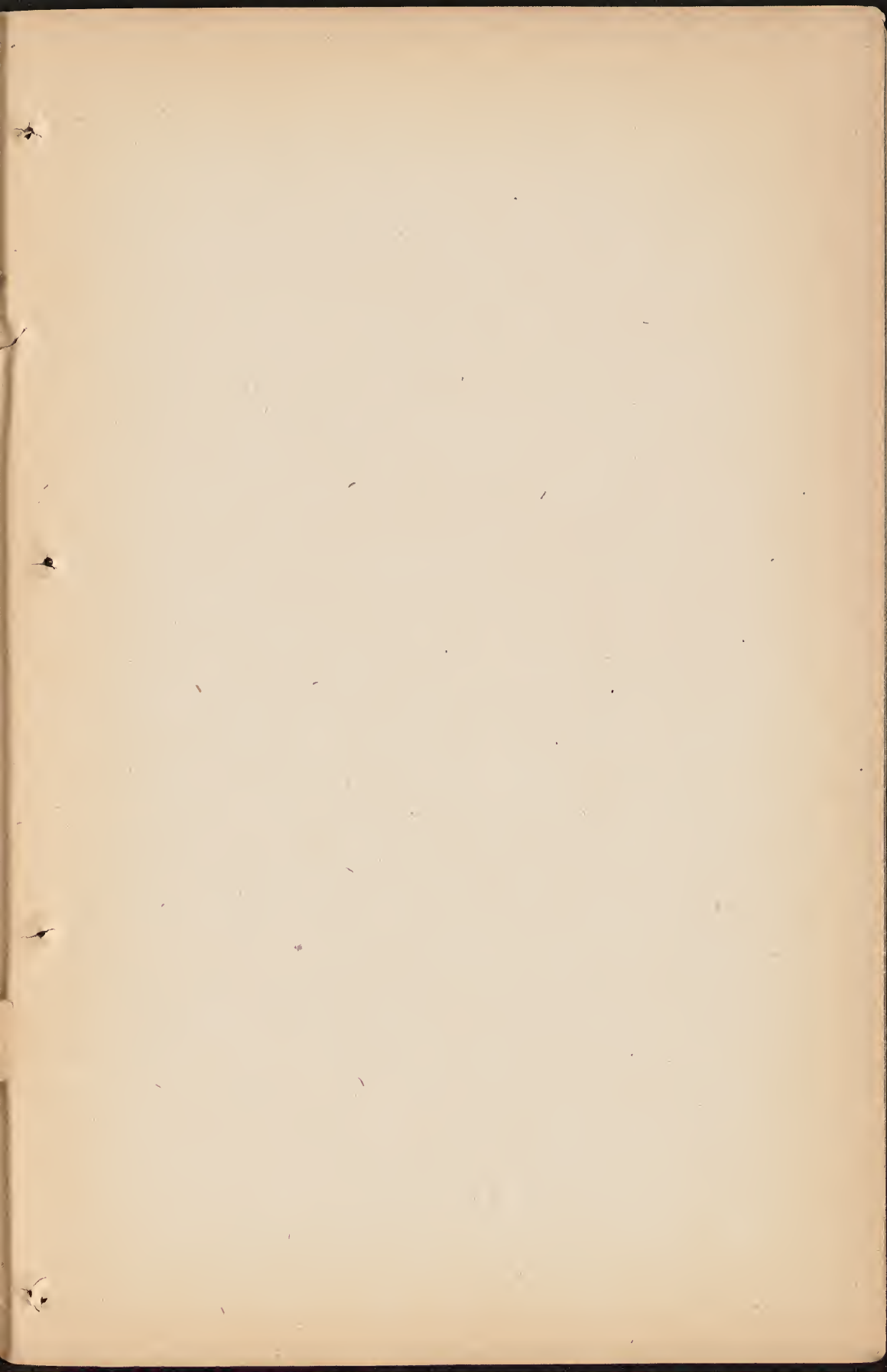
The inheritance duties constitute a charge on the inheritance for a period of ten years.

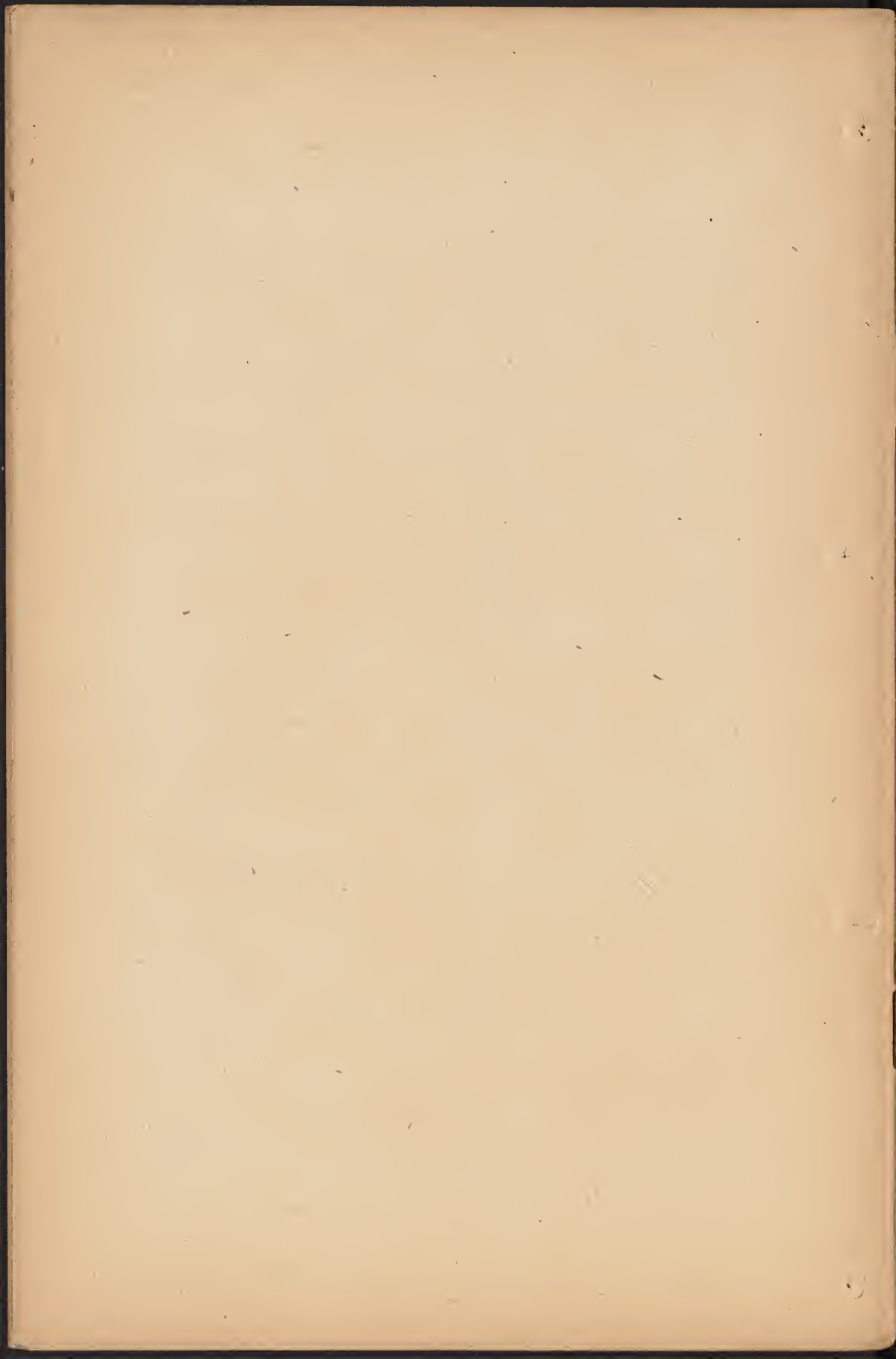
In the case of non payment of the succession duties (as in the case of the income tax) the fiscal authorities can collect the taxes from any assets of the person liable or of the deceased estate holder.

It must be remarked that in the United States the Federal law contains no provision tending to avoid double taxation in the matter of inheritances. In view of the fact that there exists high progressive taxation in almost all countries, cases arise where once all the taxes are paid, scarcely any thing remains for the legatees.









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\* These brochures were issued in connection with the London Congress, June 1921.



INTERNATIONAL  
CHAMBER OF COMMERCE

FIRST CONGRESS  
LONDON (June 27 to July 1, 1921)

*Brochure No. 12*

DOUBLE TAXATION

PART II  
SPECIAL REPORT BY THE BRITISH NATIONAL COMMITTEE

*Second Edition*

INTERNATIONAL HEADQUARTERS

PARIS

33, RUE JEAN-GOUJON

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FIRST CONGRESS  
LONDON (June 27 to July 1, 1921)

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DOUBLE TAXATION

PART II  
SPECIAL REPORT BY THE BRITISH NATIONAL COMMITTEE

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INTERNATIONAL HEADQUARTERS  
PARIS  
33, RUE JEAN-GOUJON

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## INTRODUCTION

A study of the accompanying report on Direct Taxation in the United Kingdom from the point of view of double taxation will afford ample proof of the reasons which have led the British National Committee, while furnishing a series of brief replies to the points raised in the questionnaire drawn up by the Select Committee on Double Taxation, to submit an independent report giving a more complete statement of the complicated legislation under which direct taxation is levied in the United Kingdom.

The British Committee's report, has been compiled by Mr. Raymond W. Needham, late of the Inland Revenue Department, and of the Middle Temple, Barrister-at-Law.

It may be interesting to add here statistics giving some idea of the importance of the four principal forms of direct taxation (Income Tax, Super Tax, Corporation Profits Tax, and Death Duties) as producers of revenue. The following figures show the revenue obtained under each heading during the financial year 1920-1921, and the corresponding estimate for the financial year 1921-1922.

	1920-1921	1921-1922 (Estimate)
	£	£
Income Tax (including Super Tax, etc.)	394,146,000	410,500,000
Corporation Profits Tax .....	650,000	30,000,000
Excess Profits Duty, etc.....	219,181,000	120,000,000
Death Duties .....	47,729,000	48,000,000
	<hr/>	<hr/>
Total .....	661,706,000	608,500,000
Total revenue from all sources.....	£1,425,985,000	£1,216,650,000

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### I

## MEMORANDUM ON THE INCOME TAX

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## PRELIMINARY NOTE

The *Income Tax*, the *Super Tax*, the *Corporation Profits Tax*, and the duties generally known as *Death Duties*, are treated in separate Memoranda.

It has not been thought necessary to deal with the *Land Tax*, the *Inhabited House Duty*, the *Excess Profits Duty*, or the *Mineral Rights Duty*.

The *Land Tax* is probably a relic of the feudal system. A fixed amount of Land Tax called a Quota is levied upon every Land Tax Parish, but provision for the redemption of the tax by payment of a capital sum was made in 1798, and in 1896 a maximum rate of tax was prescribed. The yield of the tax is now inconsiderable. It may here be noted that the Land Tax payable on any property is deducted in arriving at the amount chargeable to Income Tax on that property.

The *Inhabited House Duty* is charged by the House Tax Act 1851 upon the annual value of inhabited dwelling houses in Great Britain. The rate of duty varies according to the annual value of the house. This duty is payable in addition to any Income Tax that may be chargeable in respect of the same property.

The *Excess Profits Duty*, which was imposed in 1915 on profits made by businesses in excess of a certain standard, is withdrawn under the Finance Act, 1921.

The *Mineral Rights Duty* was imposed in 1910, together with other duties on Land Values. The other duties were withdrawn by the Finance Act, 1920, but the Mineral Rights Duty remains. It is levied on the rental value of all rights to work minerals, and of all mineral wayleaves, in the United Kingdom, with certain exceptions. It is really an additional Income Tax on the particular form of income on which it is imposed.

It will be observed that apart from the Excess Profits Duty, which is being abolished, no question arises in connection with any of the above-mentioned duties as to the residence, domicile, or nationality, of the person chargeable.



## INCOME TAX

### 1. Short Historical Survey.

In considering the Income Tax it must always be borne in mind that the tax has a long and chequered history. Levied in Great Britain, but not in Ireland, in 1799 (*a*), it was modified in 1803, 1805, and 1806, and abolished in 1816; in 1842 it was revived (*b*) on the same general basis, and in 1853 (*c*) it was extended to Ireland. In almost every subsequent year some modification was effected, and in 1880 (*d*) an effort was made to consolidate the provisions relating to the machinery of assessment and collection. The process of annual modification went on, and other important changes were introduced in the Finance Acts of 1894, 1897, 1898, 1907, 1910, 1915, 1916 and 1917. In 1918 the enactments then in force were sorted out and gathered up in the Income Tax Act 1918 (*e*). Further modifications followed in 1919 and 1920, and the Finance Bill of 1921 contains fresh proposals. Indeed, as the conditions of industrial, commercial, financial, and individual life progress from year to year, the Income Tax code has to be modified accordingly. For example, limited liability companies did not come into legal existence until some years after the passing of the Income Tax Act of 1842, and the provisions of that Act have had to be modified by law, and adapted by the Courts, to meet conditions which were not then contemplated and could not have been foreseen. In these circumstances, the Income Tax Acts are not, and never can be, a stabilised and definite legal code based on a scientifically perfect conception of what an income tax should be; and the Royal Commission on the Income Tax, which was appointed in 1919 and reported in 1920, came to the conclusion that it would be unwise, if not impossible, to cancel all previous Income Tax enactments, and create a fresh code on a basis of pure reason. So far, then, as the United Kingdom is concerned, the Income Tax, like many another British institution — including the British Constitution — will go on being treated rather as a physical growth than as a logical abstraction (*f*).

### 2. General Scope — The Schedules.

The Income Tax Acts do not attempt to give one comprehensive definition of the income upon which the tax is charged. They divide

- (*a*) The Income Tax Act 1799 (39 Geo. 3, c. 13).
- (*b*) The Income Tax Act 1842 (5 and 6 Vict. c. 35).
- (*c*) The Income Tax Act 1853 (16 and 17 Vict. c. 34).
- (*d*) The Taxes Management Act 1880 (43 and 44 Vict. c. 19).
- (*e*) 8 and 9 Geo. 5.

(*f*) The subject is treated fully in the Appendices to the First Instalment of the Minutes of Evidence published with the Report of the Royal Commission on the Income Tax, 1920.

such income into five classes or " Schedules " known as Schedules A, B, C, D & E; and they define the content of those five Schedules, any income not falling within any one of those Schedules being outside the range of the tax.

### 3. Certain Important Characteristics.

The following features of the tax may well be noted at the outset :

- (1). The income-tax is a tax on income.

Though this is a truism, it is a truism that is in danger of being overlooked ; for, as evidenced by many leading cases, there is a tendency to confuse generally that which is income with that which is capital (*g*), and more particularly that which is income within the meaning of the Income Tax Acts with that which is not income within the meaning of those Acts, though it may be income in another sense (*h*).

- (2). Income liable to income tax must fall within the general conception of " annual " income.
- (3). Though charged under different Schedules the income tax is one tax and " not a collection of taxes essentially distinct " (*i*).
- (4). The annual value of a house — apart from the furniture — occupied by the owner, is treated as income liable to income tax. Such part, however, of the annual value of a furnished house as is attributable to the furniture is not liable to income tax when the house is occupied by the owner ; but when the house is let furnished, the whole net rent is liable to income tax so long as such rent comes within the meaning of annual income.
- (5). Although in principle the Income Tax Acts charge income as distinguished from capital, the Acts themselves transgress this principle in certain respects. For example, no distinction is drawn between interest in perpetuity and a terminable annuity, between income from leasehold property and income from freehold property, or between income from a " wasting asset " (e. g., a mine) and income from what may be regarded (relatively) as permanent capital (*k*). None the less, an allowance is made in respect of the depreciation and obsolescence of machinery and plant employed in trades and businesses (*m*).

(*g*) A good example is *Secretary of State in Council of India v. Scoble* (1903) A. C. 299.

(*h*) See, for example, *Ystradyfodwg and Pontypridd Main Sewerage Board v. Bensted* (1907) A. C. 264.

(*i*) Lord Macnaghten in *London County Council v. Attorney General* (1901) A. C. 26.

(*k*) *Miller v. Fairie* (1878) 16 S. c L. R. 189 ; *Alianza Co. v. Bell* (1906) A. C. 18.

(*m*) Schedule D, Cases I and II, Rule 6 ; Income Tax Act, 1918, S. 53 and S. 56.

#### 4. The Schedules — Schedule A.

The tax under Schedule A. is charged on the annual value of " the property in all lands, tenements, hereditaments, and heritages *in the United Kingdom* ". Such lands etc. are divided into three principal classes . (1) such landed property as land, houses, business premises ; (2) tithes, manorial dues etc. issuing out of land ; and (3) business concerns such as mines, quarries, gasworks, ironworks, canals, and railways.

Business concerns, as will be seen, logically fall within the provisions of Schedule D., and the particular business concerns specified in Schedule A. appear to have been included in that Schedule because in the words of Lord McLaren, (n) " in the case of ironworks and the other works enumerated which are carried on with a view to profit, it is impossible, or at least extremely difficult to separate the profit derived from the use of the land from the profit derived from the mercantile undertaking carried on by means of the land or its produce, and, therefore the two things are massed together and are assessed as a going concern ".

The " annual value " on which such business concerns are assessed is the amount of the profit they make.

#### 5. Schedule B.

The Tax under Schedule B. is charged, on the basis of annual value " in respect of the *occupation* of all lands, tenements, hereditaments and heritages *in the United Kingdom* " (unless the annual value of such occupation falls within Schedule A. or Schedule D). Broadly speaking, Schedule B. applies to the occupation of agricultural land, woodlands, deer-forests, parklands, etc ; but it does not apply to the occupation of dwellinghouses (other than farmhouses occupied by a tenant farmer) or of business premises. It is, in the main, a tax on the profits derived from the occupation of land — the profits of farming ; (o) but instead of being levied on the basis of actual profits it is levied on a conventional basis, calculated (p) by reference to the annual value of the land (which in itself is based upon the rack rent of the land). This conventional basis was adopted owing largely to the fact that farmers were not in the habit of keeping accounts, but this habit is now spreading, and farmers may elect to be assessed under Schedule D. (p) according to the rules for assessment under that Schedule, on the basis of actual profits instead of conventional profits.

#### 6. Schedule C.

Tax under Schedule C. is charged on the annual amount of all profits arising from interest, annuities, dividends, and shares of annui-

(n) *Harris v. Edinburgh Corporation* (1907) S. C. 1233.

(o) So far as the tax is levied in respect of the occupation of non profit-producing land (e. g. park-lands) it may be regarded in the light of a privilege tax.

(p) Formerly the profit was deemed to be one-third of the annual value ; under the Finance (No. 2) Act 1915, the basis was raised to the full annual value ; and S. 21 of the Finance Act 1918 further raised the basis to twice the annual value. This is the basis now in force. But the farmer can always have the assessment reduced to the actual profit made by him. (See Schedule B, rules 5 and 6).



ties payable out of any *public revenue* in the year of assessment. The income from Consols and certain other Government securities, home colonial, or foreign, fall within this Schedule.

#### 7. Schedule D.

The charging words of Schedule D. may conveniently be quoted in extenso :

Tax under this Schedule shall be charged (*q*) in respect of:

- (a) The annual profits or gains arising or accruing (*r*).
  - i. To any person *residing in the United Kingdom* from any kind of property whatever *whether situate in the United Kingdom or elsewhere*; and.
  - ii. To any person *residing in the United Kingdom* from any trade (*s*), profession, employment or vocation, *whether the same be respectively carried on in the United Kingdom or elsewhere*; and
  - iii. To any person, *whether a British subject or not, although not resident in the United Kingdom*, from any property whatever *in the United Kingdom*, or from any trade, profession, employment or vocation, *exercised within the United Kingdom*; and
- (b) All interest of money, annuities, and other annual profits or gains not charged under the other Schedules and not specially exempted from tax "

#### 8. Schedule E.

Tax under Schedule E. is charged on the annual amount (*t*) of the income of every public office or employment or profit, and on the annual amount of every annuity, pension or stipend payable by the Crown or out of the public revenue of the United Kingdom, other than annuities charged under Schedule C.

This Schedule comprises persons holding offices under the Crown, Ministers of the Crown, civil servants, commissioned officers in the Navy, Army and Air Force, persons holding office under either House of Parliament, the Courts of Justice, any ecclesiastical body, any company or society whether corporate (e. g. a limited liability company) or not, any public institution, or any public corporation or local authority.

9. It will be seen that the various Schedules are not always logically differentiated from each other. Thus, both Schedule A. and Schedule B. comprise certain profit-making activities which might naturally have been placed in Schedule D., whilst Schedule D. encroaches upon the natural domain of both Schedule C. and Schedule E. It will also

(*q*) The basis of assessment is defined in para 12.

(*r*) Annual profits and gains specifically charged under other Schedules are not of course charged again under Schedule D. The Income Tax is only one tax.

(*s*) " Trade " includes every trade, manufacture, adventure or concern in the nature of trade (I. T. Act. 1918, S. 237).

(*t*) Chiefly, the amount of the year of assessment, though there are other bases in certain cases.



be seen that in none of the *Schedules (u)* is any distinction drawn in the words imposing the tax between a British subject and a foreign subject. The distinctions drawn are (i) between a person residing in the United Kingdom and a person residing out of the United Kingdom; (ii) between property in the United Kingdom and property out of the United Kingdom, and (iii) between trades, businesses, professions, etc. carried on in the United Kingdom, and trades, businesses, professions etc. carried on out of the United Kingdom.

10. The position may be summarised thus :

- i. All annual income whether from property in the United Kingdom, or from businesses or professions carried on in the United Kingdom, is liable to Income Tax, no matter where the person resides to whom the income accrues.
- ii. All annual income accruing to a person residing in the United Kingdom is in general liable to Income Tax, no matter from what source it comes, no matter where that source may be.

#### 11. The Question of Residence.

These propositions are simple in themselves, but in practice they are occasionally complicated by the difficulty of deciding where a person (and a limited liability company is a person) resides.

On this question of residence three general principles may be noted at the outset :

- I. The question is not where a person is domiciled (*v*).
- II. The question is not necessarily where a person has a residence, but where he resides (*w*).
- III. A person may reside in two or more countries at the same time (*x*).

12. It is desirable at this point to explore the scheme of Schedule D. more fully.

It will be found on reference to para. 7 that Sch. D. embraces three types of income :

- I. Profits from any kind of property whatever ;
- II. Profits from the carrying on of any trade, profession etc. ;
- III. Interest on money, annuities and other profits or gains.

(*u*) The distinctions made elsewhere in the Acts are explained subsequently.

(*v*) Lord President in *Inland Revenue v. Cadwalader* (1904) 7 F. 146 :

“ Domicile has no bearing on the question. ”

(It may be pointed out that an infant may be domiciled in a country in which he has never been).

(*w*) Lord Trayner in *Turnbull v. Foster* (1904) 7 F. 1. :

“ The test of liability is not having a residence in the United Kingdom, it is residing in the United Kingdom. ”

(In this connection, however, it is to be borne in mind that having a residence is an important element in deciding where a person resides.)

(*x*) Lord Justice Clerk in *Thomson v. Inland Revenue* (1918) 56 Sc. L. R. 10 :

“ I think in the sense of the Income Tax Acts, a man may reside in more than one place at the same time. ”

Now these different types of income (so far as they are not comprised in other Schedules) are dealt with in six categories known as Cases.

I. The profits of any trade.

*Normal basis of assessment.* — The average profits of the three years preceding the year of assessment (y).

II. The profits of any profession, employment or vocation.

*Normal basis of assessment.* — The average profits of the three years preceding the year of assessment.

III. Profits of an uncertain annual value, interest of money, annuities, or other annual payments, discounts, certain interest, annuities, dividends and profits out of public revenue not chargeable under Sch. C.

*Normal basis of assessment.* — The profits of the preceding year (z).

IV. Income from securities (a) *out of the United Kingdom* not charged under Sch. C., *whether the income has been or will be received in the United Kingdom or not.*

*Normal basis of assessment.* — The amount of the income for the year of assessment.

N. B. But such income, so far as it is not remitted to this country, is not liable to tax (a) when it accrues to a person who is not domiciled in the United Kingdom, or who, if a British subject, is not *ordinarily resident* in the United Kingdom; or (b) when it arises from securities which form part of the investments of the foreign life insurance fund (b) of an assurance company.

V. (a). Income from stocks, shares or rents *out of the United Kingdom, whether the income has been or will be received in the United Kingdom or not.*

*Normal basis of assessment.* — The average income of the three years preceding the year of assessment.

N. B. But such income, so far as it is not remitted to this country, is not liable to tax (a) when it accrues to a person who is not domiciled in the United Kingdom, or who if a British subject, is not *ordinarily resident* in the United Kingdom; or (b) when it arises from the investments of the foreign life assurance fund of an assurance company.

V. (b). Income from possessions (c) (other than stocks, shares or rents) *out of the United Kingdom, but only so far as it is actually remitted to the United Kingdom.*

(y) Special provision is made for new businesses and businesses that come to an end, and for businesses whose profits for the year of assessment are, in certain circumstances, less than the amount assessed.

(z) The profits of milk dealers, and cattle dealers (where the occupation of the lands does not suffice for the keep of the cattle) are assessed under Case III, on the average of three years.

(a) "The word denotes a debt or claim the payment of which is in some way secured... and does not include shares or stock in a company."

(Per Viscount Cave in *Singer v. Williams* (1921) 1 A. C. 49).

(b) This expression is defined in S. 237 of the I. T. Act 1918.

(c) "The word possessions is not a technical word... it is the widest and most comprehensive term that could be used." (Per Lord Macnaghten in *Colquhoun v. Brooks*) 14 A. C. at p. 516). It includes "the interest which a person in this country possesses in a business carried on elsewhere" (Per Lord Herschell, in *Colquhoun v. Brooks*, 14 A. C. at p. 508).

*Normal basis of assessment.* — The average of the amounts received in the three years preceding the year of assessment.

VI. Annual profits or gains not embraced in any other Case or Schedule.

*Normal basis of assessment.* — Such basis “ as the case may require ”

### 13. Residence applied to Companies.

In para. 11 we considered the question of a person's residence in its ordinary sense. But the terms of Schedule D. (a) (ii), and of Cases I and V (paras. 7 and 12) have given rise to a different view of residence so far as limited liability companies are concerned.

When a trade is carried on by a limited liability company it is often difficult to determine whether it is carried on (in the sense adopted by the Courts) in the United Kingdom or not. For a company may be incorporated in country A, it may carry on trading operations in country B, and it may control and manage those operations in country C. In such circumstances, in which country does it reside for the purposes of the Income Tax ?

In *Colquhoun v. Brooks* it was laid down by the House of Lords that where a person residing in the United Kingdom has a proprietary interest in a trade *wholly carried on abroad*, such trade is a foreign possession within Case V : it is not assessable on its full profits as in Case I, as a trade that is being “ carried on ”, but only such portion of its profits is assessable (Case V) as is remitted to the United Kingdom. Where, however, the trade is “ carried on ” wholly or in part in the United Kingdom, the profits are assessable in full under Case I.

The first question to determine is, then, where the trade is carried on, and in the *San Paulo (Brazilian) Railway Co. Ltd, and Carter (d)*, the House of Lords laid it down that a trade cannot be said to be wholly carried on in country A if it be under the control and management of persons resident in country B, although such persons act through agents and managers resident in country A.

“ In applying the conception of residence to a company we ought, I think, to proceed as nearly as we can upon the analogy of an individual. A company cannot eat or sleep, but it can keep house and do business. We ought, therefore, to see where it really keeps house and does business. An individual may be of foreign nationality, and yet reside in the United Kingdom. So may a company. Otherwise it may have its seat of management and its centre of trading in England, under the protection of English laws, and yet escape the appropriate taxation by the simple expedient of being registered abroad and distributing its dividends abroad (e) ”.

“ The real business is carried on where the central management and control actually abides (e). ”

(d) (1896) A. C. 31.

(e) Lord Chancellor in *De Beers Consolidated Mines Ltd v. Howe*. (1906) A. C. p. 455.

This doctrine had already been enunciated in *Calcutta Jute Mills Co. v. Nicholson* (1876) 1 ExD. 428, and *Cesena Sulphur Co. v. Nicholson* (1876) 1 ExD. 428 : and followed in many later cases.



Such management and control must be real and effective, not merely nominal or potential (*f*) : and the sort of control that company A can exert over company B merely by acquiring a controlling interest in its share capital, is not the central management and control which is decisive for this purpose (*g*) (*h*).

#### 14. Residence of Individuals — Special Provisions.

We may now revert<sup>1</sup> to the general principles outlined in para. 11 (as to domicile, nationality, and residence), and consider briefly certain modifications which have been made in them by specific enactment. It follows from what has been said in the preceding paragraph that a person visiting the United Kingdom for a temporary purpose only would not thereby incur liability to Income Tax under Case I in respect of a trade carried on out of the United Kingdom. At the same time, under general principles such a visitor to the United Kingdom would be liable to be charged under Cases IV and V as a person residing in the United Kingdom in respect of profits from possessions or securities out of the United Kingdom (*i*). In order to obviate this inequity it is specially provided (*k*) that a visitor shall not be so liable, provided he is in the United Kingdom for some temporary purpose only and not with any view of establishing his residence there, and that he has not actually resided in the United Kingdom for a period or periods equal in the whole to six months in the year of assessment (*l*).

On the other hand, a person ordinarily residing in the United Kingdom might escape taxation by going abroad for the purpose only of occasional residence. It is therefore provided (*m*) that every British subject (*n*) whose ordinary residence has been in the United Kingdom shall be charged as a resident, notwithstanding that at the time the assessment is made he may have left the United Kingdom, if he has so left the United Kingdom for the purpose only of occasional residence abroad.

(*f*) *Colquhoun v Brooks*.

(*g*) *Gramophone and Typewriter Co. Ltd. v Stanley* (1908) 2 K. B. 89.

(*h*) The whole question of control is reviewed in the Fourth Instalment of the Minutes of Evidence (Royal Commission on the Income Tax) Appendix No. 7 (*h*).

(*i*) That is, a person not otherwise residing in the United Kingdom. The nationality of the person is immaterial.

(*k*) Rule 2, Miscellaneous Rules applicable to Schedule D.

(*l*) The year of assessment is the year ended the 5th. April.

(*m*) Rule 3, General Rules applicable to Schedules A. B. C. D. and E.

(*n*) This provision is limited to British subjects. Persons of other nationality in the same circumstances may therefore have a curious advantage. In their case the question of residence falls to be determined on general principles. This distinction between British and non-British subjects, is merely one of detail. It applies exclusively to the question of the determination of the place of residence, and it does not derogate from the principle that the fundamental differentiation in the Income Tax Acts is one between residents and non-residents, rather than one between British subjects and non-British subjects.

Other points of detail in which the question of nationality is raised are dealt with subsequently.



15. Trade carried on in the United Kingdom by non-residents.

We have considered the case of a trade carried on wholly or in part in the United Kingdom by residents in the United Kingdom (within the meaning of the term as conceived by the Courts). It remains to deal with trade carried on in the United Kingdom by persons not resident in the United Kingdom.

A person, although resident out of the United Kingdom, may exercise a trade in the United Kingdom and be liable to Income Tax on the profits of that trade (o). Such trade may or may not be part of any trade carried on by him either in his country of residence, or elsewhere.

The first question to decide is whether a trade is exercised in the United Kingdom ; then it must be ascertained whether there is in the United Kingdom a person chargeable to the tax (p).

A non-resident person is assessable in the name of any factor, agent, receiver, branch or manager (whether such factor, etc., receives the profits or not), or of any resident person with whom he carries on business in such close relationship that the real profit may be artificially concealed (t) : but a non-resident person is not necessarily liable in respect of business done through a broker or general commission agent, or an agent casually employed (u), nor is he liable in respect of transactions with other non-residents (x). Where the real profits of a business carried on in this country, by a non-resident cannot readily be ascertained, the Commissioners may take them at a percentage of the turnover (y) : the person assessed may, however, apply for a reasonable deduction in respect of the profit applicable to processes of manufacture and production performed out of the United Kingdom (z).

The mere employing of an agent to buy goods in the United Kingdom for sale in another country does not amount to the carrying on of the trade in the United Kingdom.

If, however, contracts are habitually made in the United Kingdom by or on behalf of a non-resident, he is held to be exercising a trade in the United Kingdom, notwithstanding the fact that the contract may be carried out abroad or in part abroad (a). But liability does not arise in such cases unless the contracts are actually made in the United Kingdom (b).

" There is a broad distinction between trading *with* a country and carrying on a trade *within* a country..... Many merchants and manufacturers export their goods to all parts of the world, yet I do not suppose

(o) Sched. D. 1 (a) (iii).

(p) See *Crookston v Furtado* (1911) S. C. 217.

(t) Rule 7, General Rules, Schedule A. B. C. D. and E : this rule does not apply where the non-resident person is a British subject or to a British, Indian, Dominoni or Colonial firm or company, or branch thereof.

(u) Rule 10.

(x) Rule 11.

(y) Rule 8.

(z) Rule 12.

(a) *Erichsen v. Last* (1881) 8 Q. B. D. 414. *Werle v. Colquhoun* (1888) 20 Q. B. D. 753.

(b) *Grainger and Son v. Gough* (1896) A. C. 325.

that any one would dream of saying that they exercise or carry on their trade with every country in which their goods find customers.

..... The word ' agent ' obviously cannot extend to every agent for whatever purpose he may be employed, as, for example, to an advertising agent " (c).

" The real place where the trade is exercised is the place where the transactions forming the alleged business are closed, in the case of a selling business, by the sale of the commodity and the profit thereby realised.... Until the sale is effected the trade is incomplete " (d).

#### 16. A short note on the computation of business profits for Income tax (Schedule D).

Traders make certain deductions from their gross profits in their own accounts which are not allowed for income tax purposes. Schedule D charges " a sum not less than the full amount of the balance of the profits or gains " and specifies certain deductions, admissible and inadmissible. But the scheme of the Schedule is to proceed upon certain general principles and to particularise deductions which are inadmissible.

Inadmissible deductions are roughly of five classes : I. capital payments ; II. the interest which the capital in the business might have earned if otherwise employed ; III. the trader's personal expenses ; IV. expenses not incurred exclusively for the purposes of the business, and V. payments (e. g. annual interest) from which income tax is deductible by the person making the payment.

I. As regards capital expenditure, the trader is assumed to begin business with sufficient capital for carrying it on. All preliminary expenses, including the expense of obtaining the capital, or a lease of the premises, and all payments for the improvement of the premises or the purchase of additional plant or machinery, are treated as capital.

II. As regards interest on the capital employed in the business such interest would equally be liable to tax if the capital had been employed otherwise.

III. As regards personal expenses, the Act specifically precludes an allowance for the maintenance of a trader or his family. A wife's " earnings " in her husband's business are regarded as part of the profit of the business. Proprietors' drawings, whether described as interest on capital, salary or otherwise, are similarly part of the profits of the business. The income tax itself is treated as a personal payment, and may not be deducted as a business expense. Generally speaking, the destination of profits is ignored : a reserve fund, for example, is a part of the profits and is liable to tax.

IV. The principle underlying the rule that expenses may be deducted only when they are wholly or exclusively laid out for the purposes of the trade, is brought out in many leading cases. Thus payments made by a railway company as compensation to passengers for accidents in travelling would be deductible, but a penalty paid by a

(c) Lord Herschell in *Grainger and Son v. Gough*.

(d) *Smidh v. Greenwood* (1920) 3 K. B. 275, per Rowlatt, J.

trader for transgressing Defence of the Realm Regulations relating to his trade was held not to be deductible (a).

V. As regards payments from which the trader himself is entitled to deduct tax, it is obvious that if such payments were also treated as a deduction from profits, a double allowance would be made.

The following is a short summary of certain inadmissible deductions of an ordinary character.

#### INADMISSIBLE DEDUCTIONS

I. The cost of additions, extensions and improvements to premises, fixtures or plant and machinery.

II. Any amount placed to reserve or suspense accounts.

III. The amount written off for depreciation (but a claim in respect of the depreciation of plant and machinery may be made after the amount of the Income Tax assessment has been determined).

IV. Expenses incurred in setting up the business.

V. Expenses incurred in obtaining or re-arranging capital (e. g. legal charges for obtaining a loan, the cost of issuing shares or debentures, the cost of a deed of partnership, or the premium for a lease).

VI. Drawings by the trader for himself, his wife or his family, whether described as interest on capital, drawings, salary, wages, or otherwise.

VII. Expenses personal to the trader.

VIII. Expenses not wholly and exclusively laid out for the purposes of the trade.

IX. Annual interest, ground rent, annuities, royalties for the user of a patent, etc. from which tax is deductible by the trader out of the payments made by him.

X. The value of goods supplied without payment to the trader's family, or to another trader in return for goods not used in the business.

XI. The annual value of any business premises not situate in the United Kingdom (b) (c).

#### SPECIAL NOTE ON DEDUCTIONS IN RESPECT OF OTHER TAXES PAID ON PROFITS ASSESSABLE ALSO TO UNITED KINGDOM INCOME TAX UNDER SCHEDULE D.

1. A deduction is allowed for the following United Kingdom taxes : Excess Profits Duty (d) (e), Munitions Exchequer Payments (f) ; Corporation Profits Tax, Land Tax.

2. No deduction is allowed for United Kingdom Income Tax or Super Tax (g).

(a) *Commissioners of Inland Revenue v. von Glehn* 1920 2 K. B. 553.

(b) The annual value of business premises situate in the United Kingdom is assessed to Income Tax under Schedule A. and is, of course, deducted from the profits assessable under Schedule D.

(c) Schedule D., Cases I and II, r. 5.

(d) Schedule D., Cases I and II, rule 4 (4) and, (6).

(e) The Finance Bill 1921 contains proposals for the discontinuance of this duty.

(f) Now abolished.

(g) *Ashton Gas Co. v. Attorney General* (1906) A. C. 10.



3. A deduction is allowed for foreign and colonial taxes generally — as being trade expenses incurred in the earning of the profit (*h*) — but an allowance for Dominion Income Tax (*i*) is only made in the circumstances set out in the Note on Dominion Income Tax in this Memorandum (See para. 20, page 27).

#### 17. Liability of property out of the United Kingdom.

The liability under Schedule D of income from property out of the United Kingdom may now be considered in greater detail (See paras 7-15).

(1). Cases IV and V are concerned exclusively with income from property out of the United Kingdom.

(2). The property in Case IV is described as “ securities ” (*a*) (*b*).

(3). The property in Case V is described as “ stocks, shares or rents ”, and other “ possessions ” (*c*).

(4). The income from “ possessions ” other than stocks, shares or rents is liable to income tax *only when it is brought into the United Kingdom*, and then it is liable irrespective of the nationality or domicile of the resident to whom it accrues.

(5). The income from “ securities ” and “ stocks, shares, or rents ” is liable to income tax if it accrues to a resident in the United Kingdom, *whether it is brought into the United Kingdom or not*, except in the following two cases :

(a) Where the person to whom it accrues is either

I. not domiciled (*cc*) in the United Kingdom, or

II. a *British subject* but not *ordinarily resident* in the United Kingdom ; or

(b) Where the income arises from “ securities ” or “ stocks, shares or rents ” forming part of the foreign life assurance fund of an assurance company (*d*).

In these exceptional cases, liability is restricted to the income brought into the United Kingdom. In other words, in these exceptional cases, securities, stocks, shares and rents are treated on the same footing as other possessions are always treated.

(6). Of course, where the person to whom the income accrues does not in any legal sense reside in the United Kingdom there is no liability whatever (*e*).

(*h*) *Stevens v. Durban-Roodeport Gold Mining Co. Ltd* (1909) 100 L. T. 481.

(*i*) Finance Act 1920, S. 27 (4).

(a) This is not a technical word but “ denotes a debt or claim the payment of which is in some way secured... and does not include shares or stock in a company ” (Per Viscount Cave in *Singer v. Williams* (1921) 1 A. C. 49).

(b) But interest, etc. payable out of public revenues is charged under Schedule C.

(c) This is not a technical word ; “ it is the widest and most comprehensive term that could be used ” (Per Lord Macnaghten in *Colquhoun v. Brooks* 14 A. C.).

(*cc*) “ Domicile ” should not be confused with “ residence ” or “ nationality ”. The word is used in the ordinary sense of the law of domicil. See Memorandum on Death Duties, par. 30.

(*d*) These expressions are defined in s. 237 of the Income Tax Act, 1918.

(*e*) Such income is outside the range of the Income Tax altogether.



The position may be re-stated thus :

(7). The following classes of persons are liable on the whole income from securities, stocks, shares or rents, whether it is brought into the United Kingdom or not (f).

I. British subjects who are both domiciled and ordinarily resident in the United Kingdom.

II. Foreign subjects who are domiciled in the United Kingdom, no matter where they are ordinarily resident, provided that they have a residence in the United Kingdom (g) ;

III. Companies and other bodies residing in this country (except assurance companies in respect of income arising from the investments of their foreign life assurance funds).

(8). The following classes of persons are liable on only that portion of the income which is brought in to the United Kingdom (h) :

I. British subjects who are not domiciled in the United Kingdom, although they may have a residence in the United Kingdom ;

II. British subjects who are domiciled in the United Kingdom, but are not ordinarily resident in the United Kingdom ;

III. Foreign subjects who are domiciled in the United Kingdom, although they may have a residence in the United Kingdom (i) ;

IV. Assurance companies (in respect of income from investments in their foreign life assurance fund).

Attention may be drawn to the following points :

(9.) A foreign subject who was not in any sense resident or domiciled in the United Kingdom derived income (which was not brought into the United Kingdom) from trust funds out of the United Kingdom, but administered by Trustees both resident and domiciled in the United Kingdom. The Courts held that this latter fact did not make either the trustees or the beneficiary liable to income tax in respect of such income (k).

(10). The question of income liable to both United Kingdom income tax and Dominion income tax is dealt with in this Memorandum (para. 20).

(11). The position of persons in the United Kingdom " for some temporary purpose only " is defined in para 14 of this Memorandum.

(12). A person may be chargeable under Case V in respect of income from a foreign possession without owning the corpus itself. In *Drummond v. Collins* (l) certain property abroad was vested in trustees abroad who in their discretion made remittances out of the income for the maintenance and education of minors residing in the United Kingdom. Such income was held to be a foreign possession and to be properly charged under Case V : the moment the trustees exercised their discretion, the income became the income of the children.

(f) Case IV, rules 1 and 2 ; Case V, rules 1 and 3.

(g) Sched. D. 1 (a).

(h) Case IV, rule 2 ; Case V, rule 3.

(i) *Commissioners of Inland Revenue v. Cadwalader* (1904), 7 F. 146.

(k) *Williams v. Singer* ; *Pool v. Royal Exchange Assurance Company* (1921) A. C. 65.

(l) (1915) A. C. 1011.

(13). The same principle appears to apply to securities as well as "possessions", and the question whether the whole income is liable to tax, or only that part received in the United Kingdom, depends on the residence etc. of the recipient of the income, not of the owner of the corpus (*m*).

(14). The tax in respect of *securities* is charged upon the income received in this country, or the total income (as the case may be), in the year of assessment (*n*); the tax in respect of *stocks, shares* and *rents* is charged upon the income received in this country, or the total income (as the case may be), on an average of the three preceding years (*o*); the tax in respect of *other possessions* is charged on the income received in this country on an average of the three preceding years (*p*).

(15). Where in the case of securities, stocks, shares or rents the charge is upon the full amount of the income whether received in the United Kingdom or not, the persons liable to tax are entitled to receive a deduction for, inter alia, any foreign and colonial taxes paid on such income; with the exception, as regards Dominion Income Tax, explained in para 20.

(16). Where any "annual interest", "annuity", "or other annual payment" is payable to a person not resident in the United Kingdom out of that part of the income which is not brought into the United Kingdom, the amount of such payment is excluded from assessment.

(17). A very important kind of "income arising from possessions out of the United Kingdom" which is charged under Case V is the profits of a trade or of an interest in a trade, which is owned by an individual or a company residing in the United Kingdom, but which is not in a legal sense carried on in the United Kingdom. The tax on such profits is charged, not on the amount of the profits, but on the average for three years of the actual amounts received in the United Kingdom (*z*).

(18). The principles deciding what constitutes the receipt of income in the United Kingdom are contained in certain cases, chiefly relating to assurance and investment companies, in which the Crown exercised the option, which it always possesses, to charge the tax under Case IV or Case V instead of Case I (*a*).

"A sum of money may be received in more ways than one, e. g., by the transfer of a coin or a negotiable instrument or other document which represents and produces coin, and is treated as such by business men. Even a settlement in account may be equivalent to a receipt of a sum of money, although no money may pass; and I am not myself prepared to say that what amongst business men is equivalent to a receipt of a sum of money is not a receipt within the meaning of the statute which your Lordships have to interpret. But to constitute a receipt of anything there must be a person to receive and a person from whom he received, and something received by the former from the latter,

(*m*) Cf. *Williams v. Singer*.

(*n*) Case IV, rules 1, 2.

(*o*) Case V, rules 1, 2, 3.

(*p*) Case V, rule 2.

(*z*) Case V, rule 2.

(*a*) *Liverpool and London and Globe, etc. v. Bennett* (1912), 2 K. B.

and in this case that something must be a sum of money. A mere entry in an account which does not represent such a transaction does not prove any receipt, whatever else it may be worth " (b). In other words, unless the " income " is really brought into the United Kingdom in the form of a remittance, a credit, or as property, the fact that a certain entry is made in the accounts does not in itself constitute a receipt, not even a " constructive receipt ", in the United Kingdom (c).

None the less, a company cannot avoid liability by its system of book-keeping. An investment company received interest by the hands of its agents in America ; it also borrowed money in this country for investment in America ; it allowed the amount received as interest to remain in America, and remitted to America the borrowed money less an amount equal to the American interest. The amount so retained was held to have been received in the United Kingdom (d), and to be taxable, notwithstanding the fact that the amount retained was actually received as capital. Nor can liability be avoided by describing remittances to the United Kingdom which are really interest on foreign securities, as repayments of capital previously sent out of the United Kingdom for investment, " the mere calling it capital will not make into capital that which is essentially and in truth profit — and a profit made by the interest received on the securities " (e).

If out of interest accumulated abroad bearer bonds are bought and then sold in the United Kingdom, the proceeds received in the United Kingdom are taxable (f). But the mere cutting of coupon from bearer bonds kept in this country was held not to constitute the receipt of income in the United Kingdom, in a case in which the coupons were sent out of the United Kingdom to be cashed, and the proceeds were never remitted to the United Kingdom (g).

(19). A guardian who receives income from foreign possessions (or securities) on behalf of children resident in this country is liable to income tax on their behalf under Case IV or Case V, whether or not he has control of the possessions (or securities) themselves. On the other hand, if the beneficiary receives and controls the income but is not resident in this country, the fact that the trustees reside in the United Kingdom is immaterial. If, moreover, the beneficiary is not domiciled in the United Kingdom and no part of the income is received in the United Kingdom, no liability arises under Case IV or Case V (h) ; but if any part of the income is in fact received in the United Kingdom, the trustees would be liable in respect thereof.

#### 18. Methods of Collecting the Tax.

The general method of collecting the tax may now be indicated. Whenever possible, Income Tax is obtained by deducting it before the

(b) *Gresham Life, etc. v. Bishop* (1902) A. C. 287, per Lord Lindley.

(c) *Forbes v. Scottish Provident, etc.* ; *Forbes v. Scottish Widows, etc.* (1895) 23 R. 322 ; *Standard Life, etc. v. Allan* (1901) 3 F. 805.

(d) *Scottish Mortgage Co. of New Mexico v. McKelvie* (1886) 14 R. 98.

(e) *Scottish Provident, etc. v. Allan* (1903) A.C. 129, per Lord Davey at p. 137.

(f) *Scottish Provident, etc. v. Farmer* (1912) S. C. 45.

(g) *Scottish Widows, etc. v. Farmer* (1909) S. C. 1372.

(h) *Williams v. Singer* ; *Pool v. Royal Exchange and c.* (1921) 1 A. C. 65.



income reaches the person to whom it belongs. For instance, a trading company is required to pay to the Revenue Income Tax on the whole of its profits without reference to the ultimate destination of the profits. Such a company on paying dividends to its shareholders is entitled to retain the amount of Income Tax appropriate to the amount so distributed, and the shareholder thus receives his dividends less the Income Tax thereon. Again, the Income Tax charged under Schedule A is collected from the occupier of the property, who is entitled to make a deduction in respect of such tax from the rent payable by him.

The principal classes of income on which tax is collected by deduction "at the source" are the following :

(a) Interest on British Government pre-war securities and on certain securities issued since the out-break of war.

(b) Interest on Foreign Government securities payable in the United Kingdom.

(c) Interest on securities issued by local authorities.

(d) Mortgage and other interest payable on real property.

(e) Rents, including ground rents, lease rents, head rents, feu duties and similar payments arising out of real property.

(f) Debenture and other interest, and dividends paid by limited liability companies.

(g) Interest and dividends payable by Foreign and Colonial Companies through Agents in the United Kingdom.

(h) Coupons for dividends payable abroad which are realised through a banker or coupon dealer in the United Kingdom.

(i) Patent royalties.

(k) Mineral royalties and dead rents.

(l) Annual interest and annuities payable under contracts.

(m) Certain title rent charges.

(n) Salaries of officers of Public Departments (including the Navy, Army, Air Force, Civil Service, etc.).

On the other hand, it is not always practicable to tax income at the source, and in such cases it is necessary to make direct assessment on the recipient of the income.

The principal items of income which form the subject of direct assessments are :

(a) Profits of trades, employments and vocations.

(b) Profits from the occupation of land.

(c) Profits from foreign and colonial securities and possessions (where not taxed by deduction on payment through an agent entrusted with the payment of foreign and colonial dividends, etc., etc.).

(d) Profits from interest, discounts, etc., where not taxed by deduction (including interest on the bulk of British Government Securities which have been issued during the war).

The aggregate income of a taxpayer may be made up of a number of separate items, from some of which tax has been deducted before the income reaches him, while on others he pays on a direct assessment.

When tax is deducted at the source it is (with certain exceptions) deducted at the standard rate, which rate for the current year is 6/- in the £. This rate represents the final liability in certain cases, but



where the rate ultimately payable by a resident in this country whose income is taxed wholly or partly by deduction is less than the standard rate, certain adjustments must be made in order to give him the benefit of the relief to which he is entitled.

For example, the income of A, a bachelor, is £600, and is derived entirely from dividends taxed at the source at 6/- in the £. But he is entitled to an allowance of £135 tax free, and as regards the balance of £465, £225 is taxable at only 3/- in the £. He is, therefore, entitled to a repayment, which is made to him on production of the necessary evidence of the amount of tax which has been deducted from his income.

Such adjustments are facilitated by the fact that personal statements of total income are now rendered annually by almost every individual taxpayer.

### 19. The Liability of the Individual.

It may now be explained how the total liability of the individual taxpayer is ascertained.

#### I. Preliminary Explanation.

(1) The Finance Act, 1920 (adopting certain recommendations of the Royal Commission on the Income Tax), brings into operation for the year of assessment 1920-21 a radical alteration of the method of granting relief in the Income Tax in favour of earned income as compared with investment income, and of the method of graduating the burden of the tax according to the size of a taxpayer's income and his family responsibilities.

The Act replaces the previously existing exemptions, abatements and reliefs, by the various reliefs set out in the following paragraphs. In introducing the new system, the Act employs two terms not previously used in connection with the Income Tax, viz. : " assessable income " and " taxable income ".

" *Assessable income* " means, in the case of " earned " income, the amount of such income, as computed for Income Tax purposes, after deducting the amount of the earned income allowance mentioned in paragraph (2) below, and in the case of other income, the actual amount of such income, as computed for Income Tax purposes.

" *Taxable income* " means that part of the " assessable income " upon which Income Tax is actually charged, that is, the " assessable income " less the various deductions referred to in paragraphs (4) to (9) below.

*Note.*—Examples illustrating the practical application of the new system are given in Section V of this paragraph.

The table given on page 26 shows how the real effective rate of tax (*i. e.*, the rate at which Income Tax, including in the higher ranges of income Super-tax, is in effect payable upon each £ of the taxpayer's income) rises from a fraction of a penny in the lowest ranges of taxable incomes to approximately 12/- in the £ (Income Tax and Super-tax) in the highest ranges.

II. **The Finance Act, 1920, provides for the following reliefs .**  
**Deduction in arriving at Assessable Income**

(2) The differentiation in favour of " earned " income is made, by deducting one-tenth of the " earned " income in order to arrive at the assessable income.

*The deduction is given irrespective of the amount of the total income, but is not to exceed £200 for any one individual.*

The " assessable income " of a taxpayer is, therefore, his total income as computed for Income Tax purposes, after making the appropriate deduction under this paragraph in respect of any " earned " income.

**Total Exemption**

(3) Exemption from tax may be claimed where the total assessable income does not exceed £135, or, in the case of an individual whose wife is living with him, £225.

Where the income is wholly earned, these limits are equivalent to £150 and £250 respectively—see paragraph (2) above.

**Deductions from Assessable Income in order to arrive at Taxable Income**

Where the taxpayer is not totally exempt, the following deductions may be claimed from the total assessable income in order to arrive at the " taxable income " (*i. e.*, that part of the income upon which tax is actually charged). *The deductions may be claimed irrespective of the amount of the taxpayer's total income.*

(4) A Personal Allowance may be claimed of £135, or in the case of an individual whose wife is living with him, £225.

(5) Where a taxpayer's total income includes any earned income of his wife, the personal allowance of £225 is to be increased by a sum equal to nine-tenths of the amount of such earned income, subject to a maximum additional allowance of £45.

(6) A deduction of £45 may be claimed, under certain conditions, by (a) *a Widower* who has living with him a female relative of his or of his deceased wife for the purpose of having the charge and care of any child or adopted child of his in respect of whom the deduction for children (see paragraph (8) below) is given, or (b) *a Widow* who has a female relative of hers or of her deceased husband, resident with her for the like purpose.

If the Widower or Widow proves that he or she has no such female relative, who is able or willing to take such charge, the same deduction may be claimed in respect of some other female person employed for that purpose.

(7) A deduction of £45 may be claimed, under certain conditions, by an *Unmarried Person* who has living with him and maintains at his own expense either his mother (being a widow or living apart from her husband) or some other female relative for the purpose of having the charge and care of any brother or sister of his in respect of whom the deduction for children or adopted children (see paragraph (8) below) is given.

(8) A deduction may be claimed in respect of each child, step-child or adopted child living on the first day of the year of assessment (the 6th April), who was under the age of 16 years on that date, or who, if over that age, is receiving full-time instruction at any university, college, school, or other educational establishment. The deduction allowable is £36 in respect of *one* child, and £27 in respect of each additional child for whom the relief is due.

No deduction is, however, allowed in respect of any child or adopted child who is entitled in his or her own right to an income which, after excluding any income to which the child is entitled as the holder of a scholarship, bursary, or other similar educational endowment, exceeds, £40 a year.

(9) A deduction of £25 may be claimed in respect of any person whom the taxpayer maintains at his own expense, and who is (a) a relative of his or of his wife and incapacitated by old age or infirmity from maintaining himself or herself, or (b) his or his wife's widowed mother, whether incapacitated or not, or (c) a daughter who is resident with the taxpayer, and upon whose services he is compelled to depend, by reason of old age or infirmity.

The deduction under (a) or (b) is conditional, however, upon the income of the dependent relative not exceeding £50 a year.

The deduction applies in the case of a female taxpayer, with the substitution of " husband " for " wife " above.

Where two or more persons jointly maintain a dependent relative as above, the deduction is to be apportioned between them in proportion to the amount or value of their respective contributions.

#### **Rates of Tax chargeable on the " Taxable Income "**

The following provisions as to the rates of tax chargeable on the taxable income (*i. e.*, that part of the income on which tax is actually charged) apply *whatever the total amount of the income*.

(10) The first £225 of the taxable income of an individual is chargeable at half the standard rate of tax, *i. e.*, for the year ending 5th April, 1921, at 3s. in the £. The remainder of the taxable income is chargeable at the standard rate of tax, *i. e.*, at 6s. in the £.

Where, under the foregoing provisions, tax is not chargeable, or is chargeable at 3s. only, in respect of any dividends, mortgage interest, etc., received subject to deduction of tax at the 6s. rate, the relief due will be allowed when possible as a set-off against the tax chargeable on other income. Any relief due and not so allowed may be claimed by way of repayment.

*Note.* — Examples showing the practical application of the above paragraphs, and of paragraphs (11) and (12) below, are given in Section V.

#### **III. The Finance Act, 1920, contains further provisions, to the following effect :**

##### **Relief in respect of Life Assurance Premiums.**

(11) Where allowance is due in respect of premiums paid for Life Assurance or for contracts for Deferred Annuities, the allowance is



deducted from the amount of tax arrived at under paragraph (10), and is calculated at the following rates of tax, viz :

Where the total income does not exceed £1,000. . . . .	3s. in the £	3s. in the £
Where the total income exceeds £1,000, but does not exceed £2,000	4s. 6d. in the £	3s. in the £
Where the total income exceeds £2,000 . . . . .	6s. in the £	3s. in the £

(12) The Life Assurance allowance is now extended to apply to the following, as it applies to any other Life Assurance premiums and subject to the same restrictions :

- (a) Premiums which are not annual premiums.
- (b) Premiums paid by a wife out of her separate income in respect of an insurance on her own life or on the life of her husband.
- (c) Any sum which the taxpayer is liable to pay or to have deducted from his salary or stipend for the purpose of securing a deferred annuity to his widow or provision for his children after his death.

#### Individuals not resident in the United Kingdom.

(13) The allowances and deductions referred to in paragraphs (2) to (12) are not given to individuals not resident in the United Kingdom, and the whole of their income liable to United Kingdom Income Tax is chargeable at 6s in the £, subject to the qualification that these allowances and deductions are due, with certain modifications, where the individual satisfies the Commissioners of Inland Revenue that he or she

- (a) Is a British subject ; or
- (b) Is a person who is or has been employed in the service of the Crown, or who is employed in the service of any missionary society or of any native state under the protection of His Majesty ; or.
- (c) Is resident in the Isle of Man or Channel Islands ; or
- (d) Has previously resided within the United Kingdom, and is resident abroad for the sake of his or her health, or the health of a member of his or her family resident with him or her ; or
- (e) Is a widow whose late husband was in the service of the Crown.

#### Relief in respect of Dominion Income Tax.

(14) Relief is granted, under certain conditions, in the case of a taxpayer who has paid, or is liable to pay, United Kingdom Income Tax on any part of his income, and who proves that he has paid Dominion Income Tax for the same year in respect of the same part of his income. See para. 20.

#### V. Examples showing the practical application of the New Scheme of Differentiation and Graduation.

(15) *Example 1.*—A is a bachelor who earns £200 a year. He has no other income.



	£	s.	d.
A's actual income . . . . .	=	200	0 0
<i>Deduct</i> Earned Income Allowance (one-tenth). . . . .	=	20	0 0
Assessable income . . . . .	=	180	0 0
<i>Deduct</i> Personal Allowance . . . . .	=	135	0 0
Taxable income . . . . .	=	45	0 0
Tax at 3s. in the £ thereon. . . . .	=	6	15 0
Real effective rate of tax in this case slightly over 8d. in the £.			
(16) <i>Example 2.</i> —B is a married man with a salary of £500 and no other income. He has three children under 16 years of age.			

	£	s.	d.
B's actual income. . . . .	=	500	0 0
<i>Deduct</i> Earned Income Allowance (one tenth. . . . .	=	50	0 0
Assessable income . . . . .	=	450	0 0
<i>Deduct</i> —			
Personal Allowance. . . . .	£225		
Children — For first child. . . . .	£36		
For two other children. . . . .	54		
	90		
		315	0 0
Taxable income . . . . .	=	135	0 0
Tax at 3s. in the £ thereon. . . . .	=	20	5 0
Real effective rate of tax in this case nearly 10d. in the £.			

(17) *Example 3.*—C's total income consists of a salary of £750 and £100 from War Loan interest, from which Income Tax is not deducted before receipt. He is married, has two children under 16 years of age, maintains his widowed mother, and pays a Life Assurance premium of £20.

	£	s.	d.
C's actual income. . . . .	=	850	0 0
<i>Deduct</i> Earned Income Allowance. . . . .	=	75	0 0
(one tenth of earned income £750)			
Assessable income . . . . .	=	775	0 0
<i>Deduct</i> —			
Personal Allowance. . . . .	£225		
Deduction for one child. . . . .	36		
— second child . . . . .	27		
— widowed mother . . . . .	25		
		313	0 0
Taxable income . . . . .	=	462	0 0
Tax thereon—			
£225 at 3s. in the £. . . . .	=	33	15 0
£237 at 6s. in the £. . . . .	=	71	2 0
		104	17 0
<i>Deduct</i> —			
Allowance of tax for Life Assurance premium,			
£20 at 3s. in the £. . . . .	=	3	0 0
Net Tax payable. . . . .	=	101	17 0
Real effective rate of tax in this case is nearly 2s. 5d. in the £.			

VI. **Real Effective Rates of Income Tax and Super-tax**—*i. e.*, the rate at which Income Tax (including, in the higher ranges of income, Supertax) is in effect payable upon each £ of the taxpayer's total income.

(18) Income Tax is assessable at the rates of 3s. and 6s. in the £ (see paragraph(10), and is supplemented, where the total income exceeds £2,000, by Super-tax, the rates of which become successively higher as the income increases.

A portion of the income equal to the deductions for earned income, personal allowance, children, etc., is entirely relieved from Income Tax, and each rate of Income Tax or Super-tax that is applied is charged on a particular portion only of the total income. This operates to make *the real effective rate of tax rise gradually from a fraction of a penny in the lowest ranges of taxable incomes to approximately 12s. in the £ in the highest ranges.*

*The table subjoined indicates the real effective rate of tax payable upon the individual's total income from all sources—as distinguished from the rates (3s., 6s., etc.) that may have been applied to portions of his income. In the case of incomes exceeding £2,000, the effective rates shown in the table include the Super-tax.*

The table shows effective rates of tax in steps up to 11s. 9d., in a variety of representative cases, *e. g.*, a married taxpayer, a married taxpayer with three children, an unmarried taxpayer with one dependant, etc.

Rate of tax on each £ of total income becomes s. d.	MARRIED PERSONS (WIFE HAVING NO EARNED INCOME).				SINGLE PERSONS			
	With No Children.		With Three Children.		With No Dependants.		With One Dependant.	
	Income Wholly		Income Wholly.		Income Wholly		Income Wholly	
	Earned.	Invest- ment	Earned.	Invest- ment.	Earned.	Invest- ment.	Earned.	Invest- ment.
	£	£	£	£	£	£	£	£
—	250	225	350	315	150	135	178	160
0 6	307	270	430	378	184	162	218	192
1 0	397	337	556	472	238	202	282	240
2 0	596	506	754	641	437	371	481	409
3 0	844	675	1,069	855	619	495	681	545
4 0	1,446	1,012	1,832	1,282	1,061	742	1,168	817
5 0	2,500	2,000	2,650	2,250	2,250	1,485	2,350	1,635
6 0	3,600	3,100	3,800	3,350	3,350	2,850	3,450	2,950
7 0	5,400	4,900	5,600	5,150	5,150	4,600	5,250	4,700
8 0	8,000	7,500	8,150	7,750	7,750	7,300	7,850	7,350
9 0	12,000	11,400	12,250	11,650	11,700	11,100	11,800	11,200
10 0	22,650	21,850	23,000	22,200	22,300	21,500	22,400	21,600
11 0	48,950	47,770	49,500	48,300	48,450	47,250	48,600	47,400
11 9	195,900	191,100	198,050	193,250	193,750	188,950	194,35	189,550

## 20. Relief in respect of Dominion Income Tax.

The position as regards relief from Income Tax in the United Kingdom on account of the payment of Income Tax in the Dominions may be outlined as follows :

(1) Under Sec. 43 of the Finance Act 1916, and subsequently under Sec. 55 of the Income Tax Act, 1918, as amended by Sec. 20 of the Finance Act 1919, any person who had paid Income Tax both in the United Kingdom and in any British possession on the same part of his income could claim a measure of relief from his United Kingdom Income Tax.

(2) These provisions applied to the assessments to United Kingdom Income Tax for the four years from 6th April 1916 to 5th April 1920.

(3) The relief was allowable at the rate of the United Kingdom Income Tax suffered in excess of 3s.6d in the £, or at the rate of the Dominion Income Tax paid, whichever was the smaller.

(4) For the year of assessment 1920-21, commencing 6th April 1920, in lieu of the relief allowed hitherto, the Finance Act, 1920 grants the extended relief from United Kingdom Income Tax recommended in the Report of the Royal Commission on the Income Tax dated 11th March 1920.

(5) The recommendation of the Royal Commission was as follows :

“ Firstly, that in respect of income taxed both in the United Kingdom and in a Dominion, in substitution for the existing partial reliefs there should be deducted from the appropriate rate of the United Kingdom Income Tax (including Super-Tax) the whole of the rate of the Dominion Income Tax charged in respect of the same income, subject to the limitation that in no case should the maximum rate of relief given by the United Kingdom exceed one-half of the rate of the United Kingdom Income Tax (including Super-tax) to which the individual tax-payer might be liable ; and Secondly, that any further relief necessary in order to confer on the tax-payer relief amounting in all to the lower of the two taxes (United Kingdom and Dominion), should be given by the Dominion concerned. ”

(6) Under Sec. 27 of the Finance Act 1920, if any person who has paid or is liable to pay United Kingdom Income Tax on any part of his income proves that he has paid Dominion Income Tax for the same year in respect of the same part of his income, the rate of the United Kingdom Income Tax on that part of his income is to be reduced by the rate of the Dominion Income Tax, but the reduction is not to exceed one-half of the “ rate of the United Kingdom Tax ”.

(7) The “ rate of the United Kingdom tax ” is defined in the Act as the rate of United Kingdom Income Tax which the claimant is liable to bear ; but where he is liable to Super-tax it is the sum of the rates of the United Kingdom Income Tax and Super-tax to which he is liable.

The rate of United Kingdom Income Tax is to be ascertained by dividing the tax payable on the claimant's “ taxable income ” (i.e. his assessable income from all sources less any deduction for personal allowance, children and other relatives) by the amount of that “ taxable



income ", while the rate of Super-tax is to be obtained by dividing the amount of the Super-tax payable by the claimant by his total income from all sources as estimated for Super-tax purposes.

(8) The rate of relief is applied to any part of the income in respect of which both United Kingdom Income Tax and Dominion Income Tax has been paid for the year in question.

(9) The relief is not necessarily calculated on the same amount as that on which the Dominion tax has been paid (*n*). Taxable income is computed by different methods in different countries, and provision is made so that if income from a certain source is estimated for Dominion tax (say at 2/- in the £.) at £800 and for United Kingdom tax at £1,000, the relief will be 2/- in the £. (provided that 2/- is not more than half the claimant's rate of United Kingdom Income Tax) on £1,000 ; if it is estimated for Dominion tax at £1,000 and for United Kingdom tax on £800, the relief will be 2/- on the £ on £800.

(10) No relief is allowed unless the Dominion income tax has been actually paid, by deduction or otherwise. The Commissioners of Inland Revenue determine what year is to be regarded for the Dominion income tax as corresponding with the United Kingdom year of assessment (*o*).

(11) The relief is given by reducing the income tax charged, or by way of repayment (*q*). In either case the whole amount of the relief is allowed against income tax, even where the relief is based in part on payment of Dominion super-tax.

(12) As relief (up to 3/- in the £.) is granted from the *rate* of United Kingdom Income Tax, it follows that the Dominion tax so allowed cannot be claimed again as a deduction in calculating the amount of income liable to United Kingdom tax (*r*).

(13) In the Report of the Royal Commission (*a*) it was recommended that the relief given by the United Kingdom should not exceed half the rate of the United Kingdom tax, and that the Dominion should give any further relief necessary to make the total relief equal to the lower of the two taxes. But where a Dominion has not made such provision, additional relief is given in the United Kingdom under proviso (*b*) to Sec. 27 (4). The difference between the amount of the Dominion income tax and the amount of the relief granted from United Kingdom tax is allowed as a deduction in estimating the income liable to the United Kingdom tax (*c*). It will be seen that under this provision the further relief is granted by reducing the amount of income to be charged to United Kingdom Tax, and that the sum deducted is the difference between Dominion income tax and United Kingdom relief, not the amount of income liable to Dominion tax.

(*n*) See Report of Royal Commissioners, paras. 74, 75.

(*o*) Sect. 27 (7) (*b*).

(*q*) Sect. 27 (2).

(*r*) Sect. 27 (4).

(*a*) Para. 70.

(*b*) Sec. 27.

(*c*) Where the profits of a trade are computed on an average of three years, the total amount of such relief will also be computed on an average of three years.



(14) Claims for relief may be made by Companies as well as by individuals, and all Companies whose rate of United Kingdom Income Tax is reduced by the relief granted are required by the Act to make an equivalent reduction in the rate of tax deducted from all dividends paid by them.

(15) It will be seen from paragraphs (6) and (7) that the maximum allowance to a Company for the year of assessment 1920-21 is 3s. in the £. i.e. one-half of the rate of tax applicable to Companies (6s.); but where a Company has paid more than 3s. in the £. Dominion Income Tax and where the further relief mentioned in the second paragraph of the recommendation of the Royal Commission on the Income Tax has not been obtained, a shareholder whose "rate of United Kingdom tax" exceeds 6s. may make a further claim.

(16) If the individual so obtains relief at a higher rate than if he had himself been charged with tax and claimed relief, the income tax authorities may make the necessary adjustment (*m*).

(17) These provisions are not confined to self-governing colonies; the word "Dominion" means any British possession or protectorate or any territory for which any Government in the Empire exercises a mandate (*i*) and "Dominion income tax" means "any income tax or super-tax charged in any Dominion, if that tax appears to the Special Commissioners to correspond with United Kingdom income tax or Super-tax" (*j*).

## 21. Summary of provisions against evasion.

The provisions against evasion fall into two classes : A. *Criminal proceedings* and B. *Pecuniary penalties*.

### A. Criminal proceedings.

(1) *Section 5 of the Perjury Act 1911, which, however, does not apply to Scotland or Ireland, provides that if any person knowingly and wilfully makes (otherwise than on oath) a statement false in a material particular, and the statement is made "in an abstract, account, balance sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return or other document which he is authorised or required to make, attest, or verify, by any public general Act of Parliament for the time being in force", he shall be guilty of a misdemeanour and be liable on conviction to imprisonment with or without hard labour for any term not exceeding two years or to a fine, or to both such imprisonment and fine.*

(2) *Section 227 of the Income Tax Act 1918, imposes a penalty on summary conviction, of not exceeding six months' imprisonment with hard labour for false returns or claims, either on the person's own behalf or for another person. This course involves a prosecution within six months.*

(3) *Apart from the Perjury Act, the delivery to an Inspector of Taxes for Income Tax purposes, and with intent to deceive him, or a taxing*

(*m*) Sect. 27 (3).

(*i*) Sect. 27 (8) (a).

(*j*) Sect. 27 (8) (c).

authority, of a false account or document is a misdemeanour at Common Law.

(4) *Conspiracy* between two or more persons to defraud the Revenue is also a misdemeanour at Common Law, rendering the parties liable to imprisonment or fine or both.

#### B. Pecuniary penalties.

The *pecuniary penalties* imposed by the Acts may all be recovered *within three years* after they are incurred (section 221 of the Income Tax Act 1918) and are as under :

##### Omission to make a return.

(1) *Section 107 (1) of the Income Tax Act 1918* : Not exceeding £ 20 and treble duty if proceedings are before the General Commissioners ; £50 in the High Court.

(2) *Section 126 (1) of the Income Tax Act 1918* : *Inspector of Taxes may surcharge tax-payers not already assessed.* Surcharges confirmed on appeal carry treble duty, unless, as provided by section 137 (6) of the Income Tax Act 1918, the Commissioners are satisfied that there is no intention of fraud.

(3) *Section 146 of the Income Tax Act 1918* ; Commissioners, on appeal or on confirmation of assessment, can impose treble duty. This is equivalent to, but is not technically, a penalty.

(4) *Section 100 of the Income Tax Act, 1918* : Not exceeding £5 if party proceeded against proves that he is not chargeable to tax.

##### False Return.

(5) *Section 107 (1) of the Income Tax Act 1918* : The delivery of a false return exposes a tax-payer to the penalty for failure to make a true and correct return (Lord Advocate v. Sawers, 3 Tax Cas. 617) Attorney-General v. Till, 5 Tax Cas. 440). The penalties are the same as in para. B. (1) above.

(6) *Section 132 of the Income Tax Act 1918* : If not already charged, assessment to be made in treble duty. If assessment insufficient, treble duty on deficiency to be charged.

(7) *Section 146 of the Income Tax Act, 1918* : The Commissioners, on appeal or on confirmation of an assessment exceeding the amount returned, can impose treble duty on the deficiency.

##### False claim of abatement or other relief.

(8) *Section 30 of the Income Tax Act, 1918* : £20 and treble duty on the whole income as if such claim had not been allowed. Proceedings in the High Court. The Court has no power to mitigate this penalty.

(9) *The penalty for aiding and abetting a false return or claim is £50 for each offence.*

(10) *Section 140 of the Income Tax Act, 1918*, provides power to amend statements or schedules on an appeal :

“ (1) A person who has delivered a statement or schedule  
“ and discovers any omission or wrong statement therein, may  
“ deliver an additional statement or schedule rectifying the same,

“ and shall not thereafter be liable to any proceeding by reason of his omission or wrong statement. ”

“ (2) A person who has not delivered a statement or schedule, within the time limited, may deliver it at any time before proceedings for recovery of a penalty, incurred in respect of such non-delivery, have been commenced, and thereafter no such proceedings shall be taken.

The claim is sometimes advanced that if an amended return is made at any time before proceedings are actually instituted no penalty can be exacted, but inasmuch as the section requires discovery on the part of the taxpayer, which is held to involve voluntary disclosure, and an absence throughout of deliberate fraud, the claim is seldom successful (*Attorney-General v. Till* 5 Tax Cas. 440). Moreover, where fraud can be proved, the provisions of the Perjury Act 1911, quoted above, provide an additional remedy.

## II

### SUPER-TAX

Super-tax is “ an additional duty of income tax ” on individual income exceeding a specified amount. Like the ordinary income tax it is intended to be a permanent tax, though imposed annually (a).

Super-tax is charged wherever the income of the individual exceeds £2,000, but the first £2,000 of the income is exempt from tax. Thus an individual whose income is £2,500 pays super-tax on the balance of £500 only, according to the prescribed scale (b).

Super-tax applies only to the income “ of any individual ” (c), and not to companies and other bodies of persons. Of course, a partner in a firm is liable if his total income exceeds £2,000 (d).

Super-tax is treated as income tax in ascertaining the relief to be given in respect of Dominion income tax (which includes Dominion super-tax) (e).

The liability to super-tax for any year is ascertained on the basis of the total income of the individual from all sources for the previous year as estimated for Income Tax purposes (f).

(a) Act of 1918, s. 4; *Bowles v. Attorney-General*, (1912). 1 Ch. 123, per Parker, J.

(b) Finance Act 1920, s. 15.

(c) Act of 1918, s. 4.

(d) *Gaunt v. Commissioners of Inland Revenue* (1913) 3 K. B. 395.

(e) Finance Act, 1920, s. 27.

(f) Act of 1918, ss. 4, 5 (1).



The phrase "total income from all sources" means what it says: it includes income which is directly assessed, as well as income the tax on which is deducted at the source (*g*). But the allowance in respect of "earned income", made for ordinary income tax purposes is not admissible for super-tax purposes (*h*), and other minor modifications are made by statute (*i*).

The effect of charging super-tax on the income as estimated for income tax "for the previous year" may be noted. Thus where income is derived from a trade or profession (*k*) or from discounts or interest not taxed at the source (*l*) (e. g., interest on certain War Loan Stock), super-tax is charged not on the actual income of the previous year, but on the income as adopted for income tax purpose for that year. Thus, taking the years 1, 2, 3, 4, 5, the super-tax for year 5 is charged on the income as ascertained for income tax for the year 4, and that income, when under Case I or II of Schedule D, is the average of the years 1, 2 and 3, and when assessed under Case III, the income of the year 3.

A direct assessment upon an individual — or upon a firm whose profits he is entitled to share (*m*) — which has become final and conclusive for the purpose of income tax for any year, is final and conclusive for the purposes of super-tax for the next year; and no allowance or adjustment on the ground of diminution of income or loss is taken into account for super-tax, unless it has previously been made for income tax purposes.

The income of an incapacitated, non-resident, or deceased person is chargeable to super-tax in the name of his representative (*n*), or the incapacitated or non-resident person himself may be charged if practicable by direct assessment (*o*).

A limited liability company is assessed to income tax on its profits, and deducts from the dividends paid to its shareholders an amount equal to the income tax on those dividends (*p*) and the dividends so paid (plus the tax deducted) form part of the total income of the persons to whom they are paid. But where bonus shares are allotted to shareholders the position is different. Although the allotment may be made in respect of the company's profits, the operation is held to be in essence not a payment of income but an increase of capital; and shares so allotted do not form part of an individual's total income for purposes of super-tax (*q*).

(*g*) *Brooks v. C. I. R.*, (1918) 1 K. B. 257; *Samuel v. C. I. R.*, (1918) 2 K. B., 553; *Jones v. I. R.*, (1920) 1 K. B. 711.

(*h*) Finance Act, 1920, s. 15 (4).

(*i*) Act of 1918, s. 5 (3) (a), (b) and (c); Sched. A. No. V. r. 7 and 8; s. 48; Finance Act 1919, ss. 16 and 17.

(*k*) Sched. D. Cases I, and II.

(*l*) Sched. D. Case III.

(*m*) *Gaunt v. C. I. R.*

(*n*) Act of 1918, s. 7 (2).

(*o*) *R. v. Newmarket Commrs.*, *ex parte Huxley* (1916), 1 K. B., 788.

(*p*) General Rules, r. 20.

(*q*) *C. I. R. v. Blott* (1920), 1 K. B. 114; 1920 2 K. B. 657 (Confirmed by House of Lords, 4th June 1921).



# Non-residents.

The individual need not be resident in the United Kingdom in order to be liable to super-tax. If the total income of a non-resident, as chargeable with United Kingdom income tax, exceeds £2,000 in any year, he is liable to super-tax in the following year (*r*) upon the amount in excess of £2,000, even though he has no source of income in the United Kingdom in the year of assessment to the super-tax (*s*).

Every person on whom notice is served must make a return of his total income tax for the previous year, from all sources, or of that of any non-resident, incapacitated, or deceased person chargeable to income tax in his name, and the return must be rendered, whether that total income is, or is not, such as to attract liability to super-tax. Moreover, any person who is chargeable to super-tax is himself required to give notice of his liability. Special penalties (*t*) are imposed with a view to the enforcement of these provisions.

Generally speaking, all the provisions applying to income tax as regards " persons chargeable ", assessment, collection and recovery, appeals, etc., apply also to the super-tax, so far as they are applicable ; but whilst Income Tax is in the main assessed by local Commissioners acting for the district in which the tax-payer resides or carries on his business etc., the super-tax is assessed in London by the Special Commissioners (a body of officials appointed by H.M. Treasury) who administer the tax and hear appeals against assessments (subject to a further appeal on a point of law to the High Court).

The rates of super-tax now in force are as follows : (*u*)

	Rate in the £	
In respect of the first £2,000 of the income . . . . .	Nil	
In respect of the excess over £2,000 . . . . .	s	d
For the first £ 500 . . . . .	1	6
For the next £ 500 . . . . .	2	0
— £ 1,000 . . . . .	2	6
— £ 1,000 . . . . .	3	0
— £ 1,000 . . . . .	3	6
— £ 1,000 . . . . .	4	0
— £ 1,000 . . . . .	4	6
— £ 12,000 . . . . .	5	0
— £ 10,000 . . . . .	5	6
every pound of the remainder of the excess . . . . .	6	0

(*r*) *Brooks v. C. I. R.*, 1918 1 K. B. 257.

(*s*) *Grane v. C. I. R.*, 1919, 2 K. B. 616.

(*t*) " A Penalty not exceeding £ 50, and £ 50 for every day after judgment during which the default continues. " Income Tax Act, 1918. S. 7 (4).

(*u*) Finance Act 1920, S. 15 (2).

### III

## CORPORATION PROFITS TAX

(1) This tax was introduced in the Finance Act 1920 and is governed by Section 31 and Sections 52-56 of that Act. It is an annual tax and is charged as from 1st January 1920.

*Definitions* — s. 52 (3).

(2) The following definitions are necessary to an understanding of the scope of the tax :

“ The expression ‘ company ’ means any body corporate so constituted that the liability of its members is limited ”.

This definition includes all companies the liability of whose members is limited, whether by Royal Charter, by Act of Parliament, by Letters Patent, by Prescription, or under the Companies Acts 1908 and 1917.

“ The expression ‘ British company ’ means any company incorporated by or under the Laws of the United Kingdom, and the expression ‘ foreign company ’ means any company that is not a British company ”.

In this definition an attempt is made to avoid subtleties of “ residence ” which have produced litigation under the Income Tax Acts. This question will be considered more fully later on.

*Companies liable* — s. 52 (2) (a) and (b)

(3) The tax is charged on (a) the profits of a British company carrying on any trade or business, or any undertaking of a similar character, including the holding of investments ; and (b) the profits of a foreign company carrying on in the United Kingdom any trade or business or any undertaking of a similar character, so far as those profits arise in the United Kingdom.

(4) It would not be completely correct to say that the tax was a tax upon the profits of Limited Liability Companies, for only those companies are liable which carry on “ any trade or business or any undertaking of a similar character ” or which, if they are British companies, are companies engaged in the “ holding of investments ”.

If, however, the company fulfils the condition of carrying on a trade, etc., it is liable, not only on the profits arising from that trade etc., but on all profits of the company whether they proceed directly from its trade etc., or not. At the same time, provision is made to secure that a block of profits which has been charged in the hands of Company A and distributed — as dividends for example — to Company B, shall not be again charged on Company B.

*Companies exempted.*

(5) Although in general the tax is charged on the profits of Limited Liability Companies carrying on any trade etc., certain companies of that type are exempt from it, one class of company being exempt permanently, and certain others for a prescribed period. The permanent exemption, tohech was provided in order to meet a particular case in which hardship would have resulted, is of no general interest.

*Companies temporarily exempted* — s, 52 (2).

(6) The companies temporarily exempted (up to 31st December 1922) are :

I. A company which carries on wholly on the United Kingdom any gas, water, electricity, tramway, hydraulic power, dock, canal, or railway undertaking, and which by or by virtue of any Act is precluded either from charging any higher price, or from distributing any higher rate of dividend than that authorised by, or by virtue of, the Act ; or

II. Any company being a building society.

Building societies were exempted on the ground that they encourage thrift and conduce to the solution of the Housing Problem, and that the cost of the exemption would be small.

As regards the other exempted companies it was felt that while such concerns as enjoying the privilege of limited liability came logically within the scope of the duty and could not be permanently excluded from it, they were entitled to some immediate consideration in view of the statutory restrictions upon the charges which they may make for their goods and services and upon the dividends which they may pay to their stock holders.

The exemption includes " sliding scale " companies (that is where the rate of dividend varies inversely with the prices charged) but the exemption is not intended to apply to British companies operating abroad (e.g. certain South American Railways).

The expression " carrying on " applies to any company whether British or foreign so long as it carries on the undertaking wholly in the United Kingdom, but it does not apply to any company, even though a British company, which does not carry on the undertaking wholly in the United Kingdom.

*Holding Companies.*

(6) We now come to an innovation. The words " including the holding of investments " (para. 3) appear in a Taxing Act for the first time. But it will be seen that a foreign company which is engaged in the holding of investments is not made liable to the tax. It would appear that the words were omitted as being surplusage and not with a view to placing foreign holding companies in a more favourable position than British holding companies. Foreign companies are liable to Corporation Profits Tax only in so far as their profits arise in the United Kingdom, and as in 99 cases out of 100 the holdings in the United Kingdom of a foreign holding company would be shares in British companies liable to Corporation Profits Tax, the holding company would not again be chargeable in respect of that income (para. 4).

As a matter of fact, however, the investments held in the United Kingdom by the foreign holding company need not be such as have



already borne the Corporation Profits Tax, and in such circumstances the foreign holding company would have a distinct advantage over the British holding company. And in this connection it is to be borne in mind that, for the purposes of the Corporation Profits Tax, the only difference between a British company and a foreign company is the place of incorporation. The doctrine of central management and control, which complicates the Income Tax position, has not to be considered.

*Computation of Profits* — s. 53, (2).

(7) Let us now deal in outline with the question of the computation of profits :

I. Profits are calculated, subject to specified modifications, on the same broad basis as that adopted for the Income Tax.

II. The profits brought under the tax are the actual profits of the accounting period ; not the profits as computed for the income tax year.

III. *The following elements must be included in the profits :*

(a) The profits of lands and buildings (including the annual value of the company's business premises) forming part of the company's assets.

(b) Income (interest, dividends, etc.) from investments held by the company, provided the company in which the investments are held is not liable in respect of such income (para. 4).

IV. *No deduction is to be made in respect of :*

(a) Royalties paid to a person having a controlling interest in the company.

(b) Interest on money borrowed from a person having a controlling interest in the company.

(c) Interest paid on " permanent loans ".

(d) Dividends or payments for the distribution of profits.

(e) Any amount in excess of £1000 per annum paid as remuneration to a director, manager, or other person concerned in the management of the company, who has a controlling interest in the company.

(f) Any transaction which has artificially reduced the amount of taxable profit.

(g) Income Tax or Corporation Profits Tax.

V. *A deduction is allowed in respect of :*

(a) Income (interest, dividends, etc.) received from investments in companies which are themselves liable to the tax in respect of that income.

(b) Interest on money (except " permanent loans " and money borrowed from a person who has a controlling interest in the company) borrowed for the business.

(c) Rent of premises, etc.

(d) Royalties paid to a person who has not a controlling interest in the company.

(e) A share of the profits distributed to employees under a profit-sharing scheme, and not payable to them in respect of shares acquired by way of purchase.

(f) Payments in general on which income tax is collected at the source. (But see exceptions in IV above.)



- (g) Remuneration of directors, managers, etc. except as in IV (e).
- (h) Wear and tear, renewals, obsolescence, etc. up to the amount allowable for income tax or Excess Profits Duty, whichever is greater.
- (i) Excess Profits Duty, Mineral Rights Duty and Excess Mineral Rights Duty payable or paid in the U.K. and any Excess Profits Duty or similar duty paid or payable in any country outside the United Kingdom.
- (j) Excess Profits Duty repaid in respect of a previous accounting period on account of a deficiency.
- (k) Foreign and colonial taxes generally, except Dominion Income Tax.

*Sundry important points in the computation of profits.*

(8) The following further points in connection with the computation of profits may be noted :

*Interest payable* — s. 52, (2), (b).

I. On paying interest a company may normally deduct the Income Tax thereon (Income Tax being always collected, where practicable, at the source) ; consequently in returning its profits for assessment to the Income Tax, a company may not deduct such interest. The Corporation Profits Tax is, however, not a tax on the individual, but an impersonal tax on the profits of a company. It cannot be passed on to the individual in the manner adopted for Income Tax purposes, and consequently interest is normally allowed as a deduction in ascertaining the profits liable to assessment.

*Debenture Interest, etc.* — s. 52 (3).

II. The expression “ permanent loan ” means a loan of a permanent character which is secured by mortgage or debentures or otherwise on the assets or income of a company and which, if subject to repayment is subject to repayment at not less than three months' notice.

There has been much controversy from time to time as to how such interest should in principle be treated in relation to the taxation of profits.

Is the profit of a business what remains after deducting such interest ? Or is such interest part of the profit ? Is there any essential difference from this point of view between debentures and preference shares ?

Both points of view can be argued with some force, and in this conflict of opinion, the Government has enacted that for the purposes of the Corporation Profits Tax interest on permanent loans shall not be deducted from profits. By taking this course it has removed the temptation to avoid liability by issuing debentures instead of ordinary capital.

*Royalties* — s. 53 (2) (b).

III. Royalties are treated in the same way as interest on loans other than “ permanent loans ”. They are allowed as a deduction, provided they are not paid to a person having a controlling interest in the company. Apart from this provision, it would have been possible in certain cases for a large part of the profits to be paid to the proprietor himself (indirectly if not directly), in the form of royalty ; or a British

manufacturing company could have set up a foreign company and paid its profits to the foreign company as a royalty.

IV. It is obvious that in calculating the amount of the profits subject to any particular tax, the amount of that tax is not a proper deduction.

It should be noted that Colonial and Foreign taxes (except Dominion Income Tax) are deductible, from profits as a business expense.

*Accounting Period* — s. 54 (1) and (3).

(9) As regards the accounting period, the general principle is to charge the tax annually, and to this end the normal accounting period is fixed at twelve months ( "the twelve months ending on the date up to which the accounts of the company are usually made up " ); but in order to meet exceptional cases, the Commissioners of Inland Revenue are granted powers to fix the accounting period themselves and to apportion profits.

(10) The assessable profit of the accounting period having been determined, the amount of the tax payable falls to be calculated.

*Calculation of tax payable* — s. 52, (1) (a).

I. The first £500 of profit is allowed as exempt from tax.

II. The allowance is £500 for a period of twelve months ; and whatever fraction of twelve months the accounting period may be, the allowance is that fraction of £500.

*Relief in the case of British companies* — s. 52, (1) (b).

(11) The rate of tax is 5 %, that is 1/- in the £, subject to this important proviso : " the amount of tax payable in respect of the profits of a British company for any accounting period shall in no case exceed the amount represented by ten per cent of the balance of the profits of that period estimated in accordance with the provisions..... of this Act after deducting from the amount of those profits any interest or dividends actually paid out of those profits at a fixed rate on any debentures, debenture stock, preference shares (so far as the dividend paid thereon is at a fixed rate), or permanent loan issued before the commencement of this Act, or on any debentures, debenture stock or permanent loan issued after that date for the purpose of replacing an equal amount of any debentures, debenture stock, or permanent loan issued before that date ".

I. Apart from this proviso the burden might fall heavily upon the ordinary shareholder.

Example :

Issued Capital, £1,000,000, viz :

£900,000 in 6 % Preference Shares,

£100,000 in Ordinary Shares.

Profit £60,000.

*Apart from Proviso :*

Profit. . . . . £60,000

C.P.T. (at 5 %) . . . . . 3,000

£57,000

Divd. on Pref. Shares. . . . . 54,000

Available for Ord. Share holders. £3,000

(In this case the rate of the tax would be no less than 50 per cent of the profit available for the ordinary shareholder.)

*Under Proviso :*

Profit. . . . .	£60,000
Divd. on Pref. Shares. . . . .	54,000
	<hr/>
	£6,000
Maximum C.P.T. (10 %) . . . . .	600
	<hr/>
Available for Ord. Shareholders . . . . .	£5,400

II. No duty is payable where the profits do not exceed the amount paid in fixed-rate dividends as defined in the proviso.

III. The relief is limited to British companies ; for whereas British companies are charged on the basis of the whole of their profits, foreign companies are charged only on such part of their profits as arise in the United Kingdom in respect of operations carried on in the United Kingdom.

*Returns of Profits* — s. 55, (1).

(12) The Commissioners of Inland Revenue are empowered to require returns of profits to be made to them, and such returns must be rendered within two months of the application.

*Notification of Liability* — s. 55, (2).

(13) If the Commissioners do not apply for a Return, the Company must notify them if its profits are liable ; and such notification must be given within six months of the end of the period for which the accounts are made up.

*Officers responsible* — s. 55, (1) and (2)

(14) The officers responsible in these matters are the secretary of the company or any person doing the duties of secretary ; in the case of a foreign company, any agent, manager, factor or representative of the company ; and in the case of a company in liquidation, the liquidator.

*Penalties* — s. 55, (3).

(15) The penalty for failure to comply with the provisions is a fine not exceeding £100 and a further fine not exceeding £10 a day for every day during which the offence continues after conviction.

*Assessment* — s. 56, (1).

(16) The tax is assessed by the Commissioners of Inland Revenue.

(17) The assessment is made on the company in the case of a British company ; and in the case of a foreign company, the assessment is made on the company in the name of any agent, manager, factor or other representative of the company.

(18) The Commissioners may make an assessment or an additional assessment at any time within three years after the end of the accounting period the profits of which they propose to assess.

(19) In the absence of a satisfactory return or other information on which to make an assessment, the Commissioners may make an assessment according to the best of their judgment.

(20) The tax is payable two months after the date of assessment.

(21) The tax is recoverable in the High Court as a debt due to

His Majesty, from the company assessed, or in the case of a foreign company, from the person in whose name the company is chargeable.

(22) Where the amount is less than £50, it is recoverable summarily (in the County Court) as a civil debt.

*Company in Liquidation* — s. 56, (3).

(23) Where a company is being wound up, the liquidator, receiver or other person having control of the company's assets, must not distribute the assets until he has satisfied the Commissioners of Inland Revenue that he has provided for payment of any tax for which the company may be liable. Penalty for non-compliance : a fine not exceeding three times the tax payable.

*Artificial Transactions* — s. 55, (4).

(24) The penalty for entering into fictitious or artificial transactions with a view to evading payment of the tax, is a fine, on summary conviction, not exceeding £500. In the case of a British company, the company is liable ; in the case of a foreign company, the person liable is the agent, manager, factor, or other representative of the company.

*Appeals* — s. 56, (6).

(25) An appeal may be made against the amount of an assessment to the General Commissioners, or to the Special Commissioners, and subsequently (on a point of law) to the Courts.



## DEATH DUTIES

### Generally.

1. The Death Duties which now remain chargeable in relation to deaths occurring at the present time are three in number viz.: Estate Duty, Legacy Duty and Succession Duty.

2. Estate Duty is the most important and most productive of the three duties, and, in order to appreciate its scope, it is necessary to refer briefly to the duties which preceded it, viz. : Probate Duty, Account Duty and Temporary Estate Duty. These three duties are now obsolete except as regards the estates of persons who died before the passing, 2nd August, 1894, of the Finance Act, 1894, which first imposed the charge of Estate Duty.

### Probate Duty.

3. Probate Duty is the oldest of the Death Duties, and dates from 1694. It was at first a tax of 5/- upon the grant of any probate of a will, or of letters of administration to the estate, of a deceased person where the value of the estate exceeded £20 ; and, after various changes which need not be here noted, in 1881 an *ad valorem* Stamp Duty at a percentage according to the value of the estate was imposed, and the deduction of debts and funeral expenses, before estimating the value upon which duty was payable, was allowed.

Immediately previous to the passing of the Act (Customs & Inland Revenue Act, 1881), Probate Duty was payable upon the *gross* value of the estate without any allowance for debts and funeral expenses, but a return of duty was allowed in respect of debts paid upon presentation of the vouchers and an affidavit in support thereof.

4. The same Act imposed the then new duties upon probates or letters of administration granted on or after the 1st June, 1881, *irrespective of the date of death of the deceased* : so that where it is desired to prove the will or obtain letters of administration at the present time in respect of a person who has died at any time before the 2nd August, 1894, the duties enforced by the said Act apply.

5. Cases of correction of Probate Duty when the grant of probate or letters of administration has been obtained before the 1st June, 1881, are still governed by the law in force before the passing of 44 Vict. c. 12, but such cases are now naturally very rare.

6. Probate Duty is only payable upon the deceased's *personal* property, including leaseholds.

Such personal property will naturally include :

(a). Partnership property which is always impressed with the character of personality.

(b). Real estate, forming part of the deceased's property, directed to be sold by another person, whether actually sold or not, before the death of the deceased.

c). Proceeds of real estate which the deceased had contracted to sell before his death, but where the transaction was incomplete at the time of his death.

On the other hand, Probate Duty is *not* payable in respect of :

- (a). Real estate (other than as above).
- (b). Property of which the deceased was merely a trustee.
- (c). Property situate out of the United Kingdom and not capable of being dealt with here.
- (d). Certain classes of property which are in the nature of real estate, such as shares in certain water undertakings.

(e). Estates *pur autre vie*.

7. The rates of Probate Duty are as follow :-

Estates not exceeding £100 : exempt.

Estates exceeding £100 and not exceeding £500 : £1 for every £50 and any fraction of £50.

Estates exceeding £500 and not exceeding £1000 : £1. 5. 0 for every £50 and any fraction of £50.

Estates exceeding £1,000 : £3 for every £100 and any fraction of £100.

8. Under Section 33 of the Act, accounting parties have the option to pay a fixed duty of 30/s. when the whole personal estate, wherever situate, does not exceed £300 in value, *without* deduction for any debts or funeral expenses.

9. By Section 28, the debts deductible against the value of the estate for Probate Duty shall be debts owing from the deceased and payable by law out of any part of his estate comprised in the affidavit for Probate.

They are not to include :-

(a). Voluntary debts expressed to be payable on the death of the deceased, or payable under any instrument which shall not have been *bonâ fide* delivered to the donee thereof three months before the death of the deceased.

(b). Debts in respect whereof any real estate may be primarily liable or a re-imbursement may be capable of being claimed from any real estate of the deceased or from any other estate or person.

The funeral expenses allowed are to be " reasonable according to law ".

10. The value of the deceased's estate must be taken at the date of the affidavit leading to the grant, and all accretions of income from the date of his death to that of the affidavit should be included as part of the property liable to Probate Duty.

#### Account Duty.

11. Account Duty was imposed by the same Act (1881) as that under which the present rates of Probate Duty were imposed. It was doubtless considered that the new rates of Probate Duty would lead to evasions, and, accordingly, the Account Duty was created to defeat any such attempts.

12. It is chargeable upon personal property only, including leaseholds, in the same way as Probate Duty and according to the value of such property.

13. The rates of Account Duty are the same as those for Probate Duty, but the fixed duty of 30s. does not apply to cases of Account Duty.

14. Under Sec. 38 of the Act, as amended by Sec. 11 of 52 Vict. c. 7, Account Duty is payable in respect of the following classes of property upon deaths of persons dying on or after the 1st June, 1881, viz. :

(a). " *Donationes mortis causa* " i. e. death-bed gifts.

(b). Gifts not " *bona fide* " made twelve months before the death of the deceased.

(c). Gifts, whenever made, of which " *bonâ fide* " possession and enjoyment shall not have been assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise.

(d). Any property which the deceased, having been absolutely entitled thereto, has voluntarily caused to be transferred to himself and any other person, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person. This shall also include any purchase or investment by the deceased either alone or by arrangement with any other person.

(e). Any property passing under a voluntary settlement made by the deceased, or any other instrument not taking effect as a will, whereby an interest for life or any other period determinable by reference to death is reserved expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by exercise of any power to restore to himself or reclaim the absolute interest in such property. " *Voluntary settlement* " shall include any trust, in writing or otherwise, in favour of a volunteer.

(f). Moneys payable under a policy kept up by the deceased on his life for the benefit of a donee, or a part of such moneys in proportion to the premiums paid by the deceased, where the policy was partially kept up by him for such benefit.

15. It should be remembered that ante-nuptial settlements are not " *voluntary* " settlements, marriage being a valuable consideration so far as regards the contracting parties and any issue of the marriage, and therefore to that extent do not fall within the scope of Account Duty. But post-nuptial settlements are " *voluntary* ", and Account Duty attaches to the personal property passing under them.

16. It will thus be seen that Account Duty attaches to all kinds of dispositions of a deceased's personal property made without valuable consideration at any time within a year of his death, and to any similar dispositions, no matter when made, where the deceased, expressly or by implication, reserved an interest to himself ceasing upon his death.

17. An attempt made to evade payment of Probate Duty by a deceased having, in his lifetime, assigned all his personal property to another with a condition, expressed or understood, that the deceased should enjoy the income during his life, therefore comes within the scope of Account Duty.

18. Account Duty is, of course, only now payable in respect of voluntary dispositions, as above enumerated, made by persons dying on or after the 1st June 1881, and before the 2nd August, 1894, but



the subject has been more fully considered than might appear to be necessary, having regard to the fact that the Finance Act, 1894, incorporates the Sections of the two Acts imposing Account Duty, and renders the properties heretofore liable to Account Duty liable to Estate Duty.

19. It may here be emphasised that these two duties, Probate Duty and Account Stamp Duty, were the only duties payable upon property passing on a death, or upon property being deemed to pass on a death, and were strictly confined in their incidence to personal property. Real or immovable property was only subject to Succession Duty, which, as we shall see later, was a duty payable with reference to the acquisition of property, its rate being determined by the relationship of the successor to the predecessor, and the calculation of the amount of the duty proceeding upon the value of the successor's life interest in the succession; even though he succeeded to the absolute ownership of the property. Personal property passing under a will paid Probate Duty and, potentially, Legacy Duty: real estate paid only the Succession Duty as noted above. In order to bring the taxation of the two classes of property more into line, the Customs and Inland Revenue Act 1888 increased the rates of Succession Duty by an additional  $1\frac{1}{2}\%$  on the  $1\%$  rate, and an additional  $1\frac{1}{2}\%$  on the other rates. The assessment of the Duty, however, continued as before upon the successor's life interest.

#### **Temporary Estate Duty.**

20. The first charge of duty upon the " principal " or marketable value of real estate was made by 52 Vict. c. 7. which imposed Temporary Estate Duty, commonly called " Goschen's " Estate Duty.

21. Section 5 of the Act enacts that, in case of any person applying for probate or letters of administration on or after 1st June 1889, when the value of the property in respect of which Probate Duty is payable exceeds £10,000, a statement of the value of the property shall be delivered with the Probate Duty affidavit. A similar statement is to be delivered when the property included in an account for purposes of payment of Account Duty exceeds £10,000. Upon every such statement there shall be paid a duty of £1 for every £100 or part of £100 of the value of the said property.

22. Under section 6 of the Act, where the value of any succession, upon the death of any person dying on or after 1st June 1889, chargeable with Succession Duty, exceeds £10,000, and where the value of any succession to real property under the will or intestacy of any person so dying chargeable with Succession Duty does not exceed £10,000, but such value together with the value of any other benefit taken by the successor under such will or intestacy exceeds £10,000, a separate statement of the value of the Succession shall be delivered with the Succession Duty Account and a like duty of £1 per cent. as above paid.

23. Leaseholds paying Account Duty and an extra 1 per cent. duty under Section 5 are exempted from any further claim under Section 6.

24. The mode of valuing successions for the purpose of the Temporary Estate Duty is laid down in Sec. 6 (5) of the Act, which provides



that where the successor is entitled in fee, or in tail, or under any lease for lives or for life and competent to dispose as he thinks fit of a continuing interest in the property, the value shall be the principal value of such property. But the duty payable in respect of such principal value shall not exceed the amount which would be chargeable upon an annuity equal to such annual value according to the highest value in Table III of the Succession Duty Act 1853, i. e. the value of an annuity for 95 years.

25. Section 7 of the Act declared that the duty should not be payable in respect of estates of persons dying on or after the 1st June 1896, the Act only being intended as temporary: but the duty is superseded by the Estate Duty imposed by the Finance Act 1894, in cases of persons dying after the 1st August 1894.

#### **Estate Duty.**

26. Experience and statistical information had now been gained by the Revenue authorities in collecting duty upon personal property passing under wills or intestacies; upon gifts, as already defined, which attracted Account Duty, upon property the subject of joint investments and voluntary settlements; and upon nomination policies. Information had also been obtained, through the medium of the Temporary Estate Duty, as to the principal value of certain large landed estates which fell under that tax. The time was now considered ripe to impose a new duty upon the passing of property on a death, such new duty being calculated to largely increase the flow of revenue into the Exchequer.

27. Accordingly, the Finance Act 1894 was passed, under Section 1 of which Estate Duty is charged (with certain exceptions) upon the principal value of all property, real or personal, settled or not settled, which passes on the death of a person dying after 1st August 1894, Section 2 of the Act declares that "property passing" shall be deemed to include the following, viz:

(a) Property of which the deceased was at the time of his death competent to dispose. The definition of "competent to dispose" given by Sec 22 (2) of the Act includes all property over which the deceased had a general power of appointment (whether exercised by him or not), money which he had a general power to charge upon property, property of which he was tenant in tail whether in possession or not, his share of property of which he was joint tenant, or joint owner with another, and the like.

(b) Property in which the deceased or any other person had an interest ceasing on the death of the deceased, such property being chargeable only to the extent to which a benefit accrues or arises by the cesser of such interest.

(c) Property which had heretofore paid Account Duty but including real as well as personal property, and eliminating the reference to "voluntary" settlements.

(d) Any annuity or other interest purchased or provided by the deceased either alone or by arrangement with another. Such is chargeable to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased. But a single annuity not exceeding £25 purchased by the deceased either alone or by

arrangement with another is exempt from Estate Duty ; if there be more than one such annuity, the first granted is exempt.

28. All classes of property, therefore, which would have paid Account Duty now pay Estate Duty, and, in addition, the charge of Estate Duty extends to real as well as personal property passing under such dispositions, and it matters not whether such dispositions are voluntary or made for valuable consideration such as marriage. Gifts heretofore liable to Account Duty now pay Estate Duty, and, in cases of deaths on or after 30th April 1909, gifts made within three years of the death attract Estate Duty. This, however, does not apply to gifts made before 30th April 1908, or made for public or charitable purposes. Wedding presents, gifts being part of a deceased's reasonable normal expenditure, and those which, in the case of any donee, do not exceed in the aggregate £100 in value or amount are exempted from Estate Duty (Sec. 59, Finance Act, 1910).

29. In 1899 the Courts decided (*Attorney-General v. Beech* (1899) A. C. 53) that there was no " passing " of property on the death of a life tenant, he having previously surrendered his life interest to the remainderman, and accordingly Estate Duty was not payable. In the following year the case of *Atty. Gen. v. de Préville* (1900) 1 Q. B. 223 carried the matter further by deciding that Estate Duty was not chargeable in such a case even when the surrender had been made within twelve months of the death of the life tenant. Section 11 of the Finance Act, 1900, enacted, however, that (in the case of persons dying after the 31st March 1900), the property should, notwithstanding such surrender, be deemed to pass upon the life tenant's death, unless such surrender were *bonâ fide* made twelve months before the death, and *bonâ fide* possession and enjoyment of the property assumed immediately upon the surrender and thenceforward retained to the entire exclusion of the life tenant, or of any benefit to him by contract or otherwise. This period of twelve months was extended to three years in cases of deaths on or after 30th April 1909, except as regards dispositions, surrenders, etc., made before 30th April, 1908, or made for public or charitable purposes. (Finance Act 1910. Sec. 59 (1).)

#### **Exemption from Estate Duty of certain foreign Property.**

30. The following classes of property are exempted from Estate Duty, viz :

(a) Immovable property situate out of the United Kingdom. But if such property is comprised in a British settlement, and is subject either to a power of, or trust for sale, the liability to duty is determined in accordance with the following general principles, viz :

(i). Power of Sale. No claim for Estate Duty or Succession Duty is made on the death of a life tenant of such property where a mere power of sale is conferred, where the power has not been exercised during his lifetime.

(ii). Trust for sale with power to defer. Property in this class is treated throughout as personal estate and claims for Estate Duty and Succession Duty presumptively arise on the life tenant's death *Atty. Gen. v. Johnson* (1907) 2 K. B. 885).

(iii). Trust for sale on death of tenant for life, or, if during his lifetime, only with his consent or at his request. In this class no claim for Estate or Succession Duty is made on the life tenant's death, unless the sale was actually made during his lifetime. But duty may be payable in the estate of a dead reversioner, his interest having always been regarded as an interest in British personal estate. It should be added that where a British partnership is the owner of some colonial or foreign immovables, the property in question is *prima facie* regarded as movable property, and, accordingly, the share therein of a deceased partner is liable to Death Duties.

(b) Movable property situate *out* of the United Kingdom where the deceased was at the time of his death, domiciled *out* of the United Kingdom.

This exemption requires consideration under two heads :

1st : What is movable property situate out of the United Kingdom, and

2nd : The domicile of the deceased.

As to the first head, where the property consists of bearer securities which at the date of the death are actually situate in the United Kingdom, or of registered securities the register of which is located in the United Kingdom, it is chargeable with Estate Duty. As regards Branch registers of British Companies (i. e. such companies carrying on business in a Colony, and having, for the convenience of shareholders resident there, a separate branch register) shares registered on such branch register shall, in the case of persons domiciled *in* the United Kingdom, be considered to be situate in the United Kingdom. (See Sec. 36 (6) of the Companies (Consolidation) Act 1908.)

It should, however, be explained that, during the continuance of the registration of shares registered in the colonial branch register of a British company, no transaction with reference to them can be registered in any other register. But the Company Laws of certain countries outside the United Kingdom, in making provision for the keeping of branch registers of shareholders in companies incorporated in their territories, sometimes decree that such branch registers, wherever kept, shall, in effect, be concurrent with the principal register. This system obtains under the law of the Colony of the Transvaal, and in regard to companies incorporated in the Transvaal, under Transvaal law, having registers of shareholders in England, it will generally be found that the shares can be transferred either in the Transvaal, or in the English register. In these circumstances the official view is that if at the death of the owner his share certificates are here, the shares represent assets situate in this country.

In dealing with questions involving the consideration of the locality of the shares of a company, it is, therefore, important to note whether the company itself was incorporated under British, or under some colonial or foreign, law. The country of incorporation is now frequently referred to as the country of the "domicile" of the company.

even if not  
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As to the second head, "*domicile of the deceased*" : Domicile, as understood in English law, is generally divided into two categories :

- (1) "The domicile of origin" and (2) "the domicile of choice."

The former is the domicile acquired by each person at birth, and, as to a legitimate child, this will be the domicile of the father at the time of the birth, or, if the father be then dead or if the child be illegitimate, the domicile will be that of the mother.

"A domicile of choice" obtains where a person takes up his residence in some country or state other than that of his domicile of origin, with the intention of permanently residing there and of never returning, otherwise than for temporary purposes, to the place of his former domicile, for here he is said to have acquired a domicile of choice in such country or state. But a person may abandon his domicile of choice, in which case the domicile of origin reverts to him, until he acquires a new domicile of choice.

The domicile of an infant will, during infancy, usually follow that of his father or mother, as the case may be, but, if a son, under age, has taken up a position which he is likely to retain for life or has married and formed a home in the country of his parent's earlier domicile, his domicile would probably not change on the removal of the parent.

A woman on marriage acquires the domicile of her husband, and this she retains during coverture unless she is judically separated, in which event, as also on the determination of the coverture, she may, by her own act, acquire a different domicile.

The acquisition of domicile of choice is largely a matter of intention, such intention being generally deduced from a person's acts.

The general rule would now seem to be that every person *sui juris* is free to choose his own domicile and to change it whenever he pleases ; a domicile of choice being determined by two essential points, first, *factum* (the fact of living in the country of adoption), and, secondly, *animus manendi* (the intention of permanently remaining in that country), both of which must be present to displace the domicile of origin conferred by law.

(c) Property of which the deceased was merely a trustee for another *But* (1) the disposition must not have been made by the deceased, and (2) if made by the deceased must have been made more than twelve months (extended to three years by the Finance Act, 1910, in cases of deaths on or after 30th April, 1909) and possession and enjoyment of the property *bonâ fide* assumed by the beneficiary immediately upon the creation of the trust, and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.

(d) Property passing on death of the deceased by reason only of a *bonâ fide* purchase from the person under whose disposition the property passes. This also extends to the falling-in of leases or annuities for lives where such were *bonâ fide* purchased. If the purchase was made for partial consideration, such consideration shall be allowed as a deduction against the value of the property for Estate Duty purposes.

(e) Settled property which has already paid Estate Duty since the date of the settlement does not again pay Estate Duty until the death of



a person competent to dispose thereof, except where such person is not *sui juris*.

The exemption thus conferred was held by the House of Lords. *In re Studdert* (*Commissioners of Inland Revenue v. Priestley*, 84 L. T. R 700) to extend to the case of Estate Duty paid upon the death of a reversioner upon settled funds, such reversioner having died in the lifetime of the tenant for life ; so that, upon the latter's death, no second Estate Duty was payable. But the Finance Act 1910 abrogated this extension, in the case of persons dying on or after 30 April 1909, except where the reversioner is also the settlor.

(f) In the case of settled property, where the interest of any person under the settlement fails by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death.

(g) The property of common seamen, marines, or soldiers who are slain or die in His Majesty's service is exempt from Estate Duty.

Power is also given to the Treasury to remit Death Duties up to £150 in cases of soldiers or sailors dying since 11th October, 1899 while on active service, where their property passes to their widows or lineal descendants and does not exceed £5,000.

The latter part of this relief was given as a consequence of the South African War, but has been materially extended by the provisions of the Death Duties (killed in war) Act of 1914, and Finance Act 1918, which apply to the estates of persons dying from wounds inflicted, accident occurring, or disease contracted, within twelve months before death, while on active service against an enemy on sea or land, such persons being, at the time, subject to the Naval Discipline Act or to Military Law. The concession is also given to members of the Mercantile Marine dying as aforesaid and also to certain non-combatants, and the recommendation of the Secretary of State for War, the Admiralty or the Board of Trade is a necessary preliminary.

Up to a value of £ 5,000 of the property passing to the deceased's widow, lineal descendants, lineal ancestors, brothers, sisters or nephews and nieces, the whole of the death duties are remitted or repaid.

If the estate exceeds £5,000, duty is only payable upon the balance in excess of £5,000, and such duty is discounted according to the age of the deceased.

When on the estate of a person so dying Estate Duty again becomes payable on the same property or any part thereof as passing on the death of some other person so dying, the whole of the Estate Duty, Legacy Duty and Succession Duty payable on the subsequent death on the property so passing is remitted or repaid.

(h) A single annuity not exceeding £25 purchased by the deceased either alone or by arrangement with another is exempt from Estate Duty, and if there be more than one such annuity, the first granted shall be exempt.

(i) The Treasury may remit the death duties upon pictures, books, etc. of national, scientific or historic interest, given for national purposes.

The like articles when enjoyed in kind by a person not competent to dispose thereof, are exempt from Estate Duty ; but that duty attaches

when the articles are sold or pass to some person competent to dispose of them.

As to deaths on or after the 30th April, 1909, the exemption extends to Legacy and Succession Duty, takes effect whether the property is settled or not, and applies to the property of artistic interest. In like cases, the duty is only chargeable when the property is sold, and then only in respect of the last death on which the property passed. Application for remission of the duty must be made to the Treasury.

(j) Pensions or annuities payable by the Indian Government to the widow or child of any deceased officer are exempt from Estate Duty.

(k) Estate Duty is not payable in respect of any advowson or church patronage.

(l) Where an interest in expectancy in any property has, before the 2nd August 1894, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on such property is payable by the purchaser or mortgagee when the interest falls into possession, than would have been payable if the Finance Act, 1894, had not been passed.

(m) Where a husband or wife is entitled, either solely or jointly with the other, to the income of any property settled by the other under a disposition which has taken effect before the 2nd August 1894, and on his or her death the survivor becomes entitled to the income of the property settled by such survivor, Estate Duty shall not be payable in respect of that property until the death of the survivor.

(n) Where a settlor, who is tenant for life, acquires by the death on or after 1st July, 1896, in his own lifetime of a subsequent limited owner under the settlement, the immediate reversion, or an absolute power to dispose of the whole property, the property shall not be deemed to pass on such death and consequently Estate Duty is not payable.

Such a "passing" would merely be an enlargement of the settlor's existing life interest into an absolute power to dispose of the property.

(o) Estate Duty is not payable where property reverts to a settlor in his lifetime on the death, on or after the 1st July, 1896, of a limited owner under the settlement who retains his interest to the entire exclusion of the settlor, and no other interest is created by the settlement, unless the limited owner had, prior to the disposition, been competent to dispose of the property.

(p) Estate Duty is not payable where the deceased was entitled in right of his wife to the rents of her real estate, and by his death, on or after the 1st July 1896, she becomes entitled to the property in virtue of her former interest.

31. Having set out the property liable to, and exempt from, Estate Duty, certain other provisions of the Finance Acts remain to be noticed. These can conveniently be dealt with under the following heads :

- (1) Valuation of property for Estate Duty.
- (2) Rates of Duty.
- (3) Miscellaneous.

(1) *Valuation of Property for Estate Duty :*

Estate Duty is payable upon the "principal" value of the property, which under Sec. 7 (5) of the 1894 Act, is estimated to be the price which,

in the opinion of the Commissioners of Inland Revenue, such property would fetch if sold in the open market at the time of the deceased's death.

It follows that expenses incurred in the sale or realisation of property cannot be allowed as a deduction against the Estate Duty. All income accrued upon the property down to and outstanding at the time of the death is to be included. Special provision (now only extending to property consisting of a tenancy from year to year, including any tenancy subject to statutory conditions under the Land Law (Ireland) Acts, and to property forming part of the "fixed duty" cases (see p. 52) and to estates not exceeding £1,000) is made for the valuation of purely agricultural property.

The valuation of cessers of interest in property shall be the principal value of the property, if the interest extends to the whole income of the property; but if the interest extends to less than the whole income then a proportionate part of the principal value is liable.

Crown entails are valued according to the successor's life interest therein.

The following deductions are allowed against the principal value of property, viz :

(a) Reasonable funeral expenses, debts and incumbrances.  
(b) Debts incurred by the deceased or incumbrances created *bonâ fide* for full consideration in money or money's worth wholly for the deceased's own benefit, which take effect out of his interest.

(c) Surety debts where no re-imburement from any other person can be obtained.

(d) Debts due to persons resident out of the United Kingdom, when contracted to be paid in the United Kingdom or charged on property situate in the United Kingdom. Other foreign debts are, in the first instance, to be paid out of the foreign property, and if the same be insufficient, then the insufficiency may be allowed as a deduction against the Estate Duty.

(e) Additional expense in administering or realising property incurred by reason of the property being situate out of the United Kingdom may be allowed but not exceeding 5 per cent on the value of such property.

(f) Foreign death duties payable in respect of foreign property may also be allowed as a deduction against the value of such property.

## (2) Rates of Duty.

In order to ascertain the rate of Estate Duty payable, regard must be had to the principle of "aggregation" introduced by the Finance Act 1894.—"Aggregation" is the lumping together of all properties passing on a death and liable to Estate Duty in order to arrive at the rate of duty payable. The rate, so ascertained, is charged upon the various properties passing on the death, whether under the deceased's will, under settlements made by him or in his favour by others, property the subject of gifts *inter vivos*, etc., etc.

The principle has been varied from time to time, but at present the three principal categories of property exempted from the general rule as to aggregation are the following :



- (a) Property in which the deceased never had an interest. The most usual type of case is an annuity purchased or provided by the deceased which does not come into existence until after his death.
- (b) The deceased's own unsettled property when not exceeding £1,000 in value.
- (c) Property passing under a disposition made by a person dying before 2nd August, 1894, when such property would, if the settlor had died on or after the 2nd August, 1894, have been liable to Estate Duty on his death.

(This latter class of property passing on a death between the 8th April, 1900 and the 19th April, 1907, is to be aggregated with other property passing but only to the extent of raising the rate of duty by 1/2 per cent.)

Where the gross value of all the property, exclusive of property settled otherwise than by the will of the deceased, exceeds £100, but not £300, a fixed duty of 30s. may be paid, and when it exceeds £300, but not £500, a fixed duty of 50s. may be paid. And in arriving at such gross figures of £300 or £500 as the case may be, charges created for the purpose of securing unpaid purchase money, or money borrowed for paying purchase money, and certain loans upon policies forming part of the Estate may be deductible.

The rates of duty have varied from time to time, the variations, needless to say, being all in the nature of increases.

On Estates not exceeding £100 no duty is payable.

On Estates exceeding £ 100 but not £ 500 rate per cent is £1

On Estates exceeding £ 500 but not £1000 rate per cent is £2

On Estates exceeding £1000 but not £5000 rate per cent is £3

These rates have remained unaltered in respect of deaths occurring from August 1894 up to the present time.

From 2nd August 1894 to 18th April 1907 the rates are :

On Estates exceeding £1000 but not £10,000 rate per cent is £3.

On Estates exceeding £10,000 but not £25,000 rate per cent is £4

The rates then proceed by increases of 1/2 per cent. up to £8 per cent. which is payable on estates exceeding £1,000,000.

From 19th April 1907 to 30th July 1919, the rates were, on two occasions, increased by Finance Acts, and the steps leading to higher rates shortened, 20 % being ultimately payable on estates over £1,000,000.

The rates payable on deaths occurring on and after the 31st July, 1919 up to the present time are :

Estates up to £5,000 as above.

	£		£			£
Exceeding	5,000	but not	10,000	rate per cent is		4
—	10,000	—	15,000	—	—	5
—	15,000	—	20,000	—	—	6
—	20,000	—	25,000	—	—	7
—	25,000	—	30,000	—	—	8
—	30,000	—	40,000	—	—	9
—	40,000	—	50,000	—	—	10



Exceeding	50,000	but not	60,000	rate per cent is	11
—	60,000	—	70,000	—	12
—	70,000	—	90,000	—	13
—	90,000	—	110,000	—	14
—	110,000	—	130,000	—	15
—	130,000	—	150,000	—	16
—	150,000	—	175,000	—	17
—	175,000	—	200,000	—	18
—	200,000	—	225,000	—	19
—	225,000	—	250,000	—	20
—	250,000	—	300,000	—	21
—	300,000	—	350,000	—	22
—	350,000	—	400,000	—	23
—	400,000	—	450,000	—	24
—	450,000	—	500,000	—	25
—	500,000	—	600,000	—	26
—	600,000	—	800,000	—	27
—	800,000	—	1,000,000	—	28
—	1,000,000	—	1,250,000	—	30
—	1,250,000	—	1,500,000	—	32
—	1,500,000	—	2,000,000	—	35
—	2,000,000			—	40

It should be noted that sect. 13 (1) of the Finance Act 1914 allows a reduction of the full amount of duty payable where the margin above the limit of the value affecting the rate of duty is small. Thus an Estate of £5,020, instead of paying 4 % as exceeding £5,000, pays 3% on £5,000=£150 plus the margin over £5,000 £20—a total duty of £170, instead of 4% on £5,020=£200. 16s.

The same Act (Sec. 15) gives a further relief thus : where Estate Duty is payable on property consisting of land or a business, or any interest in such, passing on a death, and within 5 years Estate Duty again becomes payable by reason of the death of the person to whom the property passed on the first death, the duty on the second death is reduced by 10 % to 50 % according to the period between the two deaths.

Allowances are also made (under Sec. 21 of the Finance Act, 1896 and Sec. 15 of the Finance Act, 1907), against Estate Duty for certain Legacy and Succession Duty previously paid upon the capital of settled property which becomes liable to Estate Duty.

An allowance is also made against Estate Duty for the now obsolete Settlement Estate Duty, previously paid upon settled property which had hitherto escaped a second Estate Duty, but which relief from the second Estate Duty was abolished by Sec. 14 of the Finance Act, 1914.

### (3) *Miscellaneous.*

Interest at 4 per cent. per annum is payable upon Estate Duty in respect of personal property from the day of the death, and upon Estate Duty on real property from the expiration of one year from the death, unless sold meantime, in which case the interest becomes payable from the date of completion of the sale.

Estate Duty upon real property may, at the option of the person delivering the account, be paid by eight yearly instalments or sixteen

half-yearly instalments. Interest at four per cent. per annum on the unpaid portion of the duty is added to each instalment, but in case the property is sold, the unpaid duty shall be paid on completion of the sale.

Growing timber on land shall not be taken into account in estimating the principal value of the estate, and the Estate Duty shall be payable on the net moneys received from the sale of such timber, when felled or cut during the period which may elapse until the land, on the death of some other person, again becomes liable to Estate Duty. But if at any time the timber is sold, either with or apart from the land on which it is growing, the amount of Estate Duty on the principal value thereof, shall become payable.

The deceased's executor (such term also including Administrator) is accountable for Estate Duty on all the personal property of which the deceased was competent to dispose at his death, and *may* pay the Estate Duty on any other property passing on the death, which, by virtue of any testamentary disposition of the deceased is under the control of the executor, or, in the case of property not under his control, if the persons accountable for the duty thereon request him to make such payment.

The executor shall also specify in appropriate accounts annexed to the Inland Revenue affidavit all the property in respect of which Estate Duty is payable on the death.

When the executor is not accountable for the Estate Duty, then every person to whom the property passes for any beneficial interest in possession, and also the trustee, guardian, etc. thereof, are accountable.

### **Legacy Duty.**

32. This duty is potentially payable in connection with the gratuitous acquisition of property subsequent to its passing on death.

33. It is mainly governed by the provisions of the Legacy Duty Act 1796 (36 Geo. III. c. 52.). Section 7 of that Act defined a legacy : but such definition is superseded by Sec. 4 of 8 & 9 Vict. c. 76 which declares legacies to include :

- (a). Gifts by will or testamentary dispositions payable out of of personal estate of any person ; or out of any personal estate of which such person has power to dispose, or payable out of or charged upon his real estate or out of real estate of which he has power to charge, or out of moneys to arise from sale or mortgage of any such real estate : and
- (b) Death-bed gifts.

34. Leaseholds are not now liable to Legacy Duty : they are especially exempted from this duty by Section 19 of the Succession Duty Act, 1853. and accordingly became chargeable with Succession Duty.

35. Estates *pur autre vie* applicable by law as personal estate are liable to Legacy Duty under Sec. 20 of 36 Geo. III. c. 52.

36. If the Deceased be domiciled abroad at the time of his death no Legacy Duty is payable, whether his property be situate in the United Kingdom or not. (*Thomson v. Advocate General*. 13 Sim 153).

37. Legacy Duty becomes payable upon the payment or other

satisfaction of the legacy, or upon the retainer of the property by the executor or administrator for the benefit of the person entitled.

38. Legacy Duties are cumulative: the duty is payable under the will or intestacy of every person through whose estate the legacy passes, even though such person may not have lived to enjoy it. Thus, where a legacy is given to A for life, with remainder equally to B and C, both of whom pre-decease A, bequeathing all their property to D, the fund not only pays any Legacy Duty under the wills of B and C, but also Legacy Duty upon A's death as falling into the respective estates of B and C. There is no question, as in the case of Succession Duty, of the claims for duty under the wills of B and C displacing the claim under the original will.

39. As already stated, where a legacy is given immediately by the will to a legatee, the duty is payable upon its value at the date when it was paid to the legatee or set aside for his benefit. But as to legacies given by way of annuity or to different persons in succession and the like, certain rules as to the calculation and payment of the Duty are laid down.

#### *Rules for Calculation of Legacy Duty.*

40. These may be briefly summarised thus.

(a) Legacies given by way of annuity etc.

The value thereof is calculated on the life (or other less) interest of the legatee in accordance with the tables annexed to the Act. The tables annexed to the Succession Duty Act, 1853, have since been substituted. The Duty thereon is payable by four yearly payments, and if the legatee dies before all the instalments are due, those falling due after his death cease to be payable.

(b). Legacies given to purchase annuities.

The duty is calculated upon the same tables as above, but is payable in one sum and not by instalments. But if the direction is to lay out a certain sum, say £1000, in the purchase of an annuity, the duty is payable upon the £1000 as an ordinary legacy of that amount.

(c). The duty on legacies, whose value can only be ascertained from time to time by the actual application of the fund allotted may be paid from time to time.

(d). The duty on legacies passing to different persons in succession, all being chargeable with the same rate of duty, is payable on the capital as if it were a legacy to one person. But if the different persons are chargeable with different rates of duty (e. g. £1000 to testator's brother for life, and on his death to testator's cousin for life, with remainder to such cousin's children), then the brother pays duty on his life interest in the fund as if he had been given an annuity of the annual income thereof, and on his death, duty becomes payable upon the capital of the fund as if it had, at the time of the testator's death, been given immediately to the cousin and his children.

(e). Furniture, plate, pictures etc. while enjoyed in kind, are not liable to duty, but the duty becomes payable on the sale.

41. The rates of Legacy Duty fixed by 55 Geo III c. 184, are as follow (the provision as to married persons paying the same rate of



duty as their spouses of nearer relationship to the testator being added by Section 11 of the Succession Duty Act) :

	Before Finance Act. 1910	After Finance Act 1910
Husband or wife of the deceased . . . . .	Exempt.	} 1 per cent in certain cases
Lineal ancestors and descendants, or their husbands or wives. . . . .	1 per cent	
Brothers and sisters, or their descendants, or the husbands or wives of any such. . . . .	3 per cent	
Brothers and sisters of the father or mother of the deceased or their descendants, or the husbands or wives of any such. . . . .	5 per cent	} 5 per cent
Brothers and sisters of the grandfather or grand- mother of the deceased, or their descendants, or the husbands or wives of any such. . . . .	6 per cent	
Persons in any other degree of collateral consangu- inity to the deceased or strangers in blood. . . .	10 per cent	

The circumstances under which the 1 % Legacy Duty is payable as above are those which arise under Sec. 8 of the Finance Act 1910, which re-imposed the 1 % duties. The 1 % duty however, is not be levied :

(a). Where the principal value of the property passing in respect which Estate Duty is payable (other than property in which the deceased never had an interest, and property of which he was never competent to dispose and which passes on his death to persons other than the husband or wife or lineal ancestor or descendant) does not exceed £15,000, whatever the value of the legacy : or

(b). Where the amount or value of the legacy or succession together with any other legacies or successions derived by the same person from the deceased does not exceed £1000, whatever the principal value of such property : or

(c). Where the legatee or successor is the widow or infant child of the deceased and the whole amount of the legacies and successions so derived by such person do not exceed £2000.

42. The exemptions from Legacy Duty not already appearing above are as follow :

(a) Property passing to lineal ancestors or lineal descendants of the deceased (or the husbands or wives of such) where :

I. Estate Duty has been paid on the property, except as defined by the Finance Act 1910 (supra).

II. Where Account Duty or Probate Duty has been paid : as to the former, in cases of deaths on or after 1st June, 1881 : and as to the latter, in cases of grants on or after the same date.

(b) Where the fixed Probate Duty of 30 s. has been paid.

(c) Where the net " Unsettled " Estate does not exceed £1000 in value and Estate Duty has been paid thereon.

(d) Where the deceased died domiciled abroad.



(e) Where the deceased died after the 14th March 1880, and the value of his whole personal estate is under £100.

(f) Specific legacies under the value of £20.

(g) Legacies to the Royal Family are exempt from duty, and also certain specific legacies given to bodies corporate or public bodies.

### Succession Duty.

43. Succession Duty is a duty in reality complementary to Legacy Duty, for either of these two duties is potentially payable in connection with the acquisition of property subsequent to its passing on death.

44. The Succession Duty Act 1853 imposed the Duty.

45. Section 2 of that Act declares that every disposition of property by reason whereof any person becomes entitled beneficially to any property or the income thereof upon the death of any person dying after the commencement of the Act (19th May 1853), and every devolution by law of any beneficial interest in property or the income thereof upon the death of any person dying as aforesaid to any other person, shall be deemed to confer on the person becoming entitled as aforesaid a " Succession ", and under Section 10 duty is payable upon such " Successions " at rates graduated according to the relationship between the " Successor " and the " Predecessor ".

46. The " Successor " is the person so entitled.

47. The " Pre-decessor " is the person from whom the interest of the Successor is derived.

48. The effect of Sections 1, 2, 18 and 19 of the Act is to charge Succession Duty upon :

(a) Real and *leasehold* property situate in the United Kingdom passing under a will or intestacy.

(b) Real and leasehold property situate as above passing under a disposition or devolution other than a will or intestacy, and

(c) Personal property not liable to Legacy Duty, i. e. when passing under a disposition or devolution other than a will or intestacy.

But where a testator dies domiciled abroad his pure personal property situate in the United Kingdom is not liable to Succession Duty, (nor, as we have already seen (para. 36) to Legacy Duty), because the administration of his estate does not come within the jurisdiction of the English Courts. If, however, a person domiciled abroad creates an English settlement by deed or will, then the administration of such settlement falls within the jurisdiction of the English Courts : and though Succession Duty may not be payable on the death of the testator, yet under a subsequent passing of the property under the settlement, Succession Duty is payable. (Atty. Gen. v. Campbell L. R. 5 H.L.C. 534).

49. Succession Duty is payable on the successor becoming entitled in possession to the property, or to the receipt of the income and profits thereof ; but, in the case of outstanding interests, on the determination thereof,

50. As the rate of duty depends upon the relationship between the " predecessor " and the " successor ", the question as to who is the predecessor must be accurately determined. The Act therefore lays down certain rules in cases of joint-tenancies, general and limited

powers of appointment and the like, into the details of which it is not proposed to enter.

51. Certain Sections of the Act also deal with changes which may take place in the relation of a successor to his predecessor before succession duty becomes actually payable, by reason of death, alienation etc. But Succession Duty, unlike Legacy Duty, is not cumulative, and it may generally be stated that only one Succession Duty is payable in respect of the same acquisition of the same property.

52. Moreover, no person charged with Legacy Duty in respect of any property subject to such duty shall be charged also with Succession Duty in respect of the same acquisition of the same property.

53. The rates of Succession Duty are determined by Sections 10 and 11 of the Succession Duty Act as amended by Section 41 of the Customs and Inland Revenue Act of 1881 Section, 21 (1) of the like Act of 1888, Section 1 of the Finance Act 1884, and Section 58 of the Finance Act 1910.

54. The effect of these sections may be tabulated thus :

Relationship of Successor to Predecessor	Rate of Duty			
	Where Succession arose on death before July 1, 1888	Where succession arose on death on or after July 1, 1888 and before Aug. 2, 1894 (1).	Where succession arose on Death after 1st Augt. 1894 and Estate Duty has been paid.	Where succession arose on death on or after Ap., 30 1909 and Estate Duty has been paid (2).
Husband or wife. . . .	Exempt	Exempt	Exempt	1 per cent in certain case (4)
Lineal issue or lineal ancestor, or their husbands or wives . . .	1 per cent (3)	1 1/2 per cent (3)	Exempt	
Brothers and sisters and their descendants or the husbands and wives of such . . . .	3 per cent	4 1/2 per cent	3 per cent	5 per cent
Brothers or sisters of the father or mother and their descendants, or the husbands and wives of such . . . .	5 per cent	6 1/2 per cent	5 per cent	10 per cent
Brothers or sisters of the grandfather or grandmother, and their descendants, or the husbands and wives of such . . . . .	6 per cent	7 1/2 per cent	6 per cent	
Persons of more remote consanguinity or strangers in blood, or the husbands and wives of such. . . . .	10 per cent	11 1/2 p. cent	10 per cent	

(1) It will be noticed that column 2 charges, an additional 1/2 per cent upon the 1 per cent rate, and an additional 1 1/2 per cent upon all the other rates : but these *additional* rates are not payable upon leaseholds passing under a will or

55. The rules for determining the value of property for payment of Succession Duty are :

(1) Real and leasehold property where the succession arises on a death *before* the Finance Act 1894. The duty is payable upon the value of the successor's interest treated as if it were an annuity equal to the annual value of the property payable for the rest of the successor's life or for such less period during which he shall be entitled to the property. Such annuity is valued according to the tables in the schedule annexed to the Act. It may be paid by instalments.

(2). Real and leasehold property where the succession arises *after* the Finance Act 1894, and the successor is *not* competent to dispose of the property, i. e. he has not such an estate, power or authority as would enable him to dispose of the property as he thinks fit, and he is not a tenant in tail in possession. The first rule applies.

(3). Real and leasehold property when the succession arose on a death *after* the Finance Act 1894, and the successor *is* competent to dispose of the property.

The duty is payable upon the principal value of the property estimated to be the marketable price at the time the succession arose.

4). Personal property.

Such property is to be valued by reference to the Legacy Duty Act.

56. Exemption from Succession Duty is granted in the following cases :

(a). Property passing to the husband, wife, lineal ancestor or lineal descendant of the deceased, except as noted in para. 54.

(b). Where the whole succession derived from the same predecessor and passing upon any death to any person shall not amount in money or principal value to £100.

(c). Where the fixed probate duty of 30 s. has been paid. This naturally applies only to leaseholds.

(d). Where the value of the net estate passing under the deceased's will or intestacy does not exceed £1000 and estate duty has been paid thereon. This applies to any realty or leaseholds included in the particular estate.

(e). Where the successor is also the settlor.

(f). The property of foreigners in certain cases. (See paragraphs 30 and 48).

(g). Advowsons, church patronages unless and until sold.

(h). Timber, until sold.

intestacy (i. e. where Probate Duty paid) or where Account Duty has been paid. In such cases the rates remain as in the first column.

(2) Where the succession arises under a disposition these amendments only apply if the *first* Succession arises on or after the 30th April, 1909.

(3) The duties of 1 or 1 1/2 per cent are not payable where Probate Duty or Account Duty has been paid. This is only applicable as to Account Duty, in cases of deaths on or after the 1st June 1881. Exemption is also conferred where whole estate is under £ 300 *gross* and fixed Probate Duty paid, and where whole estate does not exceed £ 1,000 *net* and Estate Duty paid.

(4) The circumstances under which these rates are payable are the same as for Legacy Duty, see para. 41.



# British Death Duties considered as regards double taxation.

57. This matter falls to be treated under two heads viz :

(1). As regards Estates of persons domiciled in the United Kingdom at the time of their death, and

(2). As regards Estates of persons not so domiciled.

58. As to (1), it will have been seen from the foregoing, that British Subjects pay Estate Duty upon practically all property, whether situate with the exception of foreign immovable property not being the subject of a British settlement.

59. Certain relief is however granted by sections of the Finance Act 1894, the most important being sec. 20 which provides that the duty paid on property in a British possession to which the section is applied shall be allowed against the Estate Duty payable in respect of such property.

60. This section provides a simple machinery which, by means of Orders in Council, can be set in operation so as to afford relief against dual taxation to Death Duties within the Empire.

61. The power to apply the scheme of the section has been extended by the Foreign Jurisdiction Act, 1913, to any foreign country in which for the time being the Crown has jurisdiction.

62. An Order in Council applying sect. 20 of the Finance Act 1894, has operative effect from the date when, under the law of the particular country, the requirements of subsection (3) of the section in question are fulfilled ; that is to say when, by the law of such country, either :

(1). No duty is leviable in respect of property situate within the United Kingdom when passing on death ; or

(2). Reciprocal provisions are made for an allowance of the British, against its own, duty (Ld. Adv. V. Douglas's Exors, 1912, I.S.L.T. 216).

63. The following are the British Possessions to which Sec. 20 of the Finance Act, 1894, has been applied by Orders in Council :

<i>British Possession</i>	<i>Date of Orders in Council</i>
Australia, Commonwealth of . . . . .	27th June, 1916

The duty in question is a federal duty payable in addition to the death duties of the different States. An allowance will accordingly fall to be made both in respect of this duty and of a State duty, except as regards any State to which Sect. 20 of the Finance Act, 1894, has not been applied. The Order in Council in this case has retrospective effect for the reason that the Commonwealth charging Act provides, as from the date thereof, for the reciprocal allowance of British' against Australian Duty.

Bahama Islands . . . . .	11th May, 1895
Barbados . . . . .	29th June, 1896
Bermudas or Somers Island . . . . .	11th May, 1895



British Columbia . . . . .	26th Oct., 1896
British Guiana . . . . .	22nd Feb., 1896
Cape of Good Hope . . . . .	13th Aug., 1895

This Order in Council was revoked by an Order in Council dated the 21st November 1908, the revocation coming into operation on the 1st January, 1909.

Ceylon . . . . .	11th May, 1895
Falkland Islands. . . . .	3rd Oct., 1895
Fiji . . . . .	24th Aug., 1895
Gambia . . . . .	11th May, 1895
Gibraltar . . . . .	16th July, 1895
Gold Coast Colony . . . . .	16th July, 1895
Grenada . . . . .	18th Oct., 1909
Hongkong . . . . .	11th May, 1895
India, British . . . . .	2nd Feb., 1895

The Indian allowance does not extend to the Feudatory Native States.

Jamaica . . . . .	3rd Aug. : 1897
Labuan . . . . .	18th May, 1897
Lagos (now known as the Colony of Nigeria) . .	16th July, 1895
Leeward Islands . . . . .	16th July, 1895
Manitoba . . . . .	26th Oct., 1896
Natal . . . . .	16th July, 1895
New Brunswick . . . . .	26th Feb., 1897
New South Wales . . . . .	29th May, 1905

The Order in Council in this case is not retrospective and has effect only from its date for the reason that the Act of the New South Wales Legislature intending to lead to reciprocity was only to take effect "on the day on which His Majesty, by Order in Council, applies Sect. 20 of the Imperial Finance Act, 1894 to New South Wales".

New Zealand . . . . .	2nd Feb., 1895
Newfoundland . . . . .	8th March, 1895
Nigeria (see above under Lagos).	
Nova Scotia. . . . .	20th Oct., 1898
Ontario . . . . .	26th Oct., 1896
Papua . . . . .	10th May, 1916
Quebec . . . . .	15th Jan., 1897
Saint-Lucia . . . . .	1st June, 1916
Sierra Leone . . . . .	8th Feb., 1896
Somers Island . . . . .	11th May, 1895
South Australia . . . . .	11th May, 1895
Straits Settlements. . . . .	11th May, 1895
Tasmania . . . . .	13th Oct., 1897
Trinidad and Tobago . . . . .	13th Aug., 1895
Victoria. . . . .	8th Feb., 1896
Western Australia . . . . .	1st Aug., 1896
Yukon Territory . . . . .	10th Jan, 1910

64. The following are the countries to which Sect. 20 of the Fi-

nance Act, 1894, has been applied in the terms of the Foreign Jurisdiction Act, 1913 :

<i>Country</i>	<i>Date of Order in Council</i>
East Africa Protectorate . . . . .	17th May, 1920
Gambia Protectorate . . . . .	6th Nov., 1916
Nyasaland Protectorate . . . . .	12th Aug., 1915
Southern Rhodesia . . . . .	12th Aug., 1915
Swaziland . . . . .	12th Aug., 1915
Uganda Protectorate . . . . .	23rd Oct., 1917
Weihaiwei. . . . .	24th Sept., 1915
Zanzibar . . . . .	6th Nov., 1916

65. The amount actually paid for Death Duty on the particular property situate out of the United Kingdom, according to the value of such amount in British money on the day of payment, is the amount allowable as a deduction against the Estate Duty.

66. Under the provisions of sect. 7 (3) of the Finance Act 1894, the Commissioners, where they are satisfied that any additional expense in administering or in realising property has been incurred by reason of the property being situate out of the United Kingdom, may make an allowance from the value of the property on account of such expense, not exceeding in any case 5 per cent. on the value of the property.

67. Where any such reduction is claimed and allowed, the effect is to reduce the value on which the Estate Duty is payable in this country. But, notwithstanding this reduction, the full amount of the duty paid in any colony or country to which sect. 20 of the Finance Act, 1894, has been applied, is allowed against the British Estate Duty, the view being taken that the widest meaning should be given to the words " a sum equal to the amount of that duty ".

68. Under the provision of Sect. 7 (4) of the Finance Act, 1894, the Commissioners are empowered to allow against the value of any foreign property liable to duty the amount of Death Duty paid thereon in a " foreign country ".

69. In this connection the expression " foreign country " is regarded as including any British Possession to which the provisions of Sect. 20 of the Finance Act, 1894 have not been applied. And the allowance of the Colonial Duty against capital value is also conceded in cases in respect of shares in non-British companies, which shares, although according to British law they may represent assets situate in the United Kingdom (e. g. by reason of the fact that they are registered, and are exclusively transferable, on a register kept in some part of the United Kingdom) yet, under the particular Colonial law, may be deemed to be situate in the Colony (e. g. by reason of the fact that the company carried on business there), with the possible consequential result that the payment of a Colonial Death Duty in terms of the law of the possession may be found a condition precedent to the transfer of the shares on a register of the company.

70. Before an Order in Council under Sect. 20 of the Finance Act, 1894 is now issued, it is the practice, so as to ensure complete reciprocity, to require the particular colony or country to make provision, for the purpose of the allowance, that the situation of the assets shall be determined according to the general rules of English law.

71. As to (2) " Estates of persons not domiciled in the United Kingdom " where such person is a Colonial and his Colony has adopted the reciprocal terms of Sec. 20 of the Finance Act 1894 his Colonial Estate will naturally claim the relief of British Death Duty paid against duty paid on the same property in the Colony.

72. The relief of the property of foreigners in certain cases has been already noted as to Estate Duty and Succession Duty in para 30 as to Legacy Duty in para. 36, and further as to Succession Duty in para 48.

73. To meet expenses of the Great War the Treasury from time to time issued various securities which, in certain circumstances, were not to be liable to any taxation, present or future.

74. Such securities included :

(1). Those issued under the American Loan Act, 1915, *except* where they are held by persons domiciled in the United Kingdom, or by British subjects ordinarily resident in the United Kingdom ; and

(2). Those issued under various other War Loan Acts, and which are exempt from Death Duties so long as they are in the beneficial ownership of persons who are neither domiciled nor ordinarily resident in the United Kingdom. (Finance (No. 2) Act 1915, S. 47) viz :

I. Miscellaneous Securities.

5 per cent Exchequer Bonds 1919-20-21-22.

5 3/4 per cent Exchequer Bonds 1925.

6 per cent Exchequer Bonds 1920.

Treasury Bills issued under Treasury Notice dated 9th March, 1916.

War Expenditure Certificates issued under Treasury Notice dated 12th Aug. 1916.

One-year 6 % British bonds issued to Swedish importers in part payment of goods.

War Saving Certificates.

5 per cent. War Loan 1929-1947.

4 per cent. War Loan 1929 1942 (Income Tax compounded).

4 per cent. Funding Loan 1910 1990.

4 per cent. Victory Bonds.

II. National War Bonds.

These comprise 15 series of 4 & 5 per cent bonds, repayable at various dates between 1st Oct. 1922 and 1st Feb. 1929.

75. In order to avoid the extension of the practice of a country charging higher death duties on the property, situate in that country, of foreigners, than on the property of their own nationals, a convention was come to, in 1899, between Great Britain and the United States, providing that any real or personal estate situate within the territories of one of the Contracting Parties, and devolving by death on the citizen or subject of the other should be liable only to such death duties as citizens or subjects of the country of the situation of the property would have been liable to pay had they in fact been the actual beneficiaries. (Treaty Series No. 17. 1900 Cd. 356.).

76. It is understood that conventions to avoid dual death duty taxation, owing to the adoption of different systems of taxation, have been come to between Germany and Greece in 1910, and between Russia and Denmark, and Russia and Greece, both in 1913.



77. Arrangements have been made with the French Government whereby the relief conferred under the Death Duties (Killed in War) Act 1914 (Sec. para. 30 (g)) is applied to the estates of officers and men in the French Army and Navy killed in the War, who have died possessed of property in the United Kingdom.

**Penalties as regards Fraudulent Declarations, etc.**

*See Inland Revenue Regulation Act 1890, Sec. 21.*

78. Penalty of £100 and 10 % on the duty for not proving Wills or taking out letters of administration within 6 months after the death or within 2 months after determination of any suit or dispute respecting the will or right to letters of administration not ended within 4 months after the death (Sec. 37, 55 Geo. III c. 184). Commissioners may by 28 and 29 Vict. c. 104 S. 57 waive the penalty and sue for the duty.

Penalty of £100 and 10 % upon amount of deficient Probate Duty within 6 months after discovery of the mistake (55 Geo. III c. 184 S. 43). And now see Sec. 40 of 44 Viet. c. 12 which makes the penalty double the amount of the duty.

Penalty of double duty for non-delivery of account on retainer for his own use disposition or distribution of property included herein by the person who as beneficiary trustee or otherwise acquires the possession or assumes the management thereof. (Ss. 39, 40 of 44 Vict. c. 12).

Sec. 8 (6) Finance Act 1894. Any person who wilfully fails to deliver an account or deliver and verify a statement of particulars required is liable to pay £100 or a sum equal to double the amount of the Estate Duty.

Acceptance of the Duty and interest is an absolute waiver of penalties. (31 & 32 Vict. c. 124 Sec. 9).

For payment or receipt of legacy, etc. liable to duty without a stamped receipt 10 % on value of the property. Sec. 28 of 36 Geo. III c. 52.

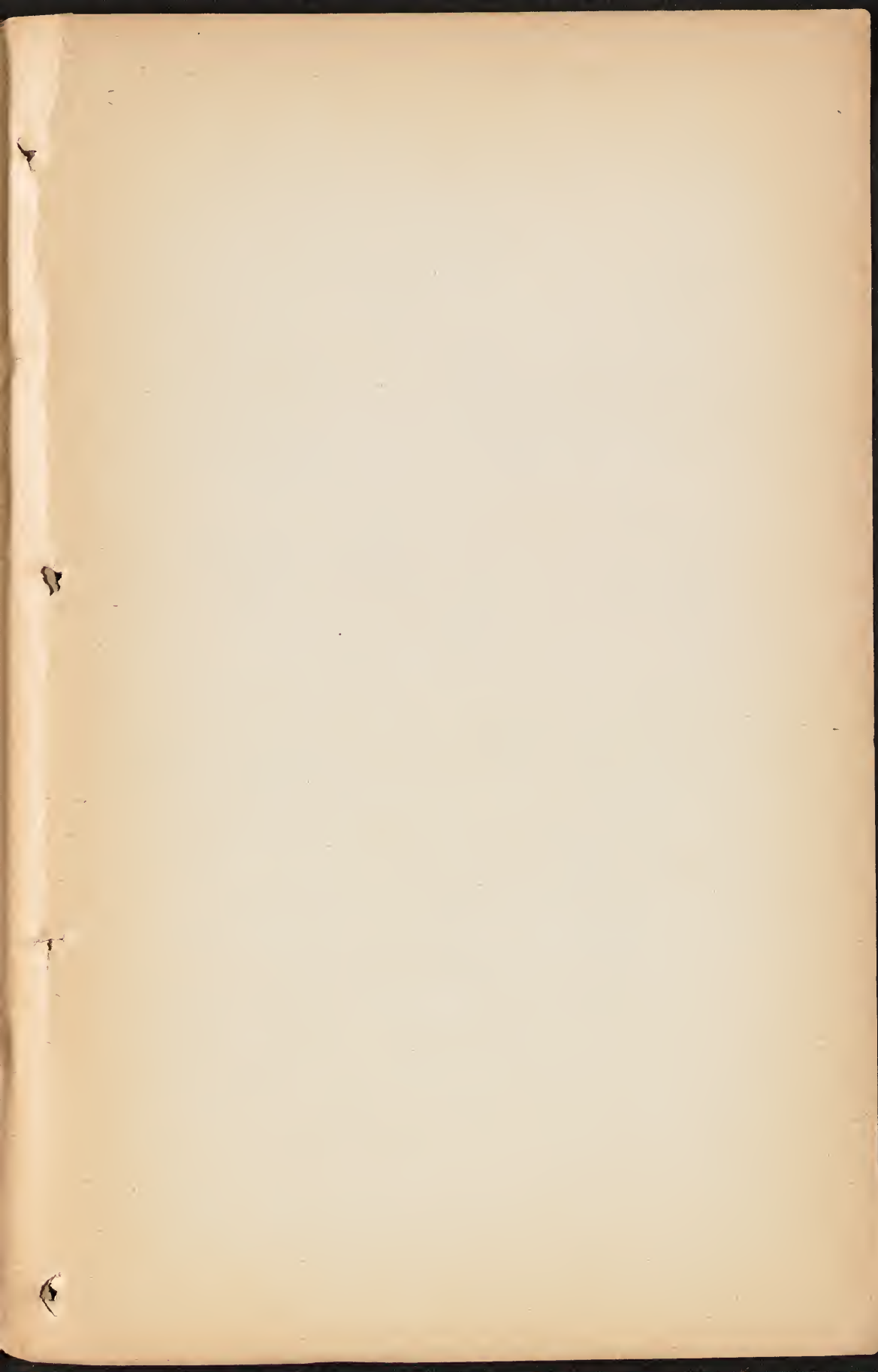
Every legacy receipt to be dated on the day of signing and duty paid within 21 days from the date under penalty of 10 per cent on amount of duty. If duty be not paid within 3 months the penalty is 10 per cent on amount or value of the legacy. Commissioners cannot stamp a receipt on which duty be not paid within 21 days from date unless penalty incurred be also paid (sec. 29). See also 48 Geo III c. 149, Sec. 44.

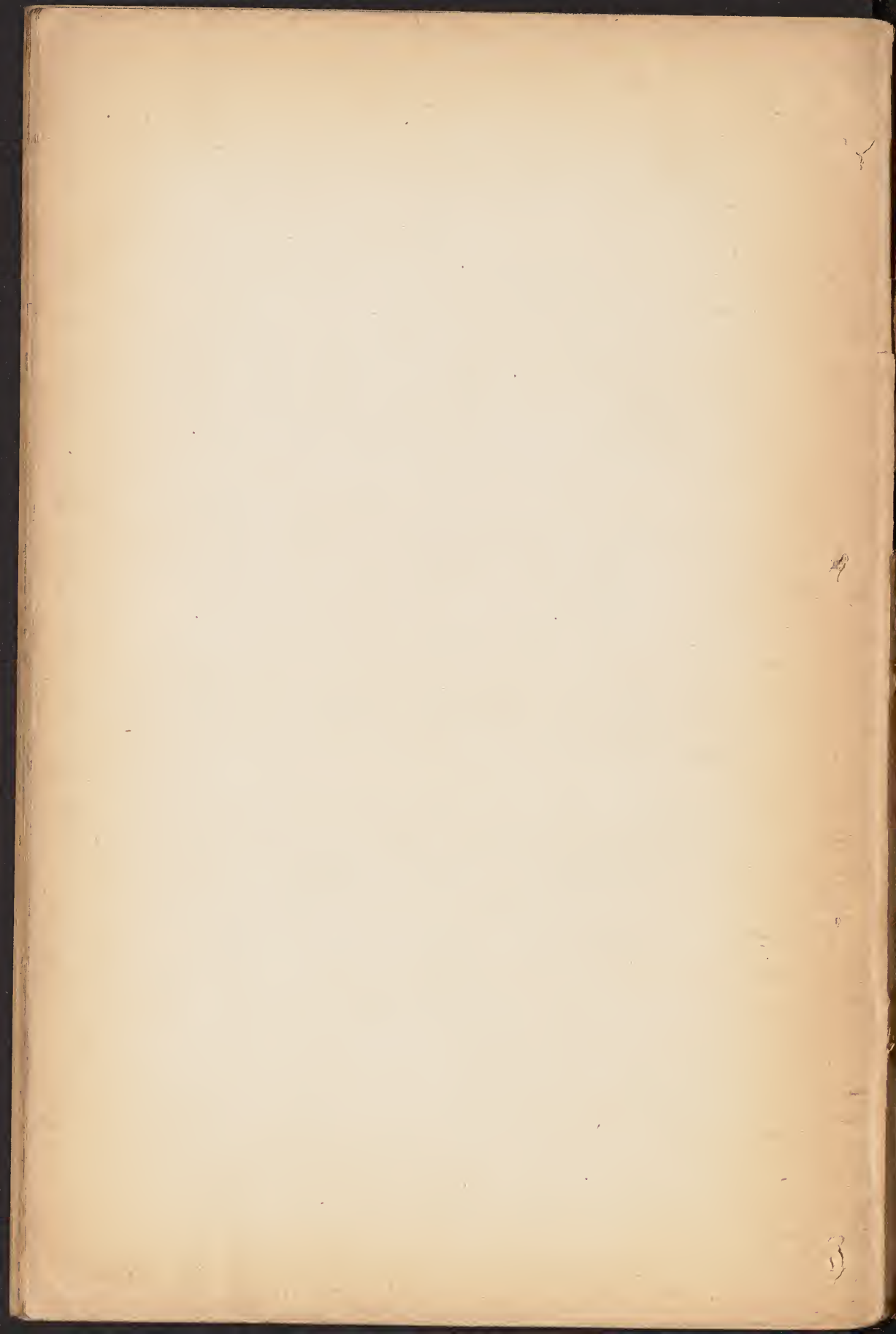
Executors to transmit particulars and pay duty on legacy bequeathed to them within 14 days of retainer. Penalty treble value of the duty. (Sec. 35).

Penalty of £500 for altering receipts after assessment with intent to defraud (Sec. 39). See also Ss. 43 & 44 of 36 Geo III. c. 52.

Persons made accountable for payment of Succession Duty in case of wilfully neglecting to give notice of succession or deliver a full and true account, liable to penalty of 10 per cent on amount of the duty (reckoned for this purpose in all cases as if payable at 1 %) for every month during which the neglect continues (Sec. 45 & 46 of 16 and 17 Vict. s. 51)







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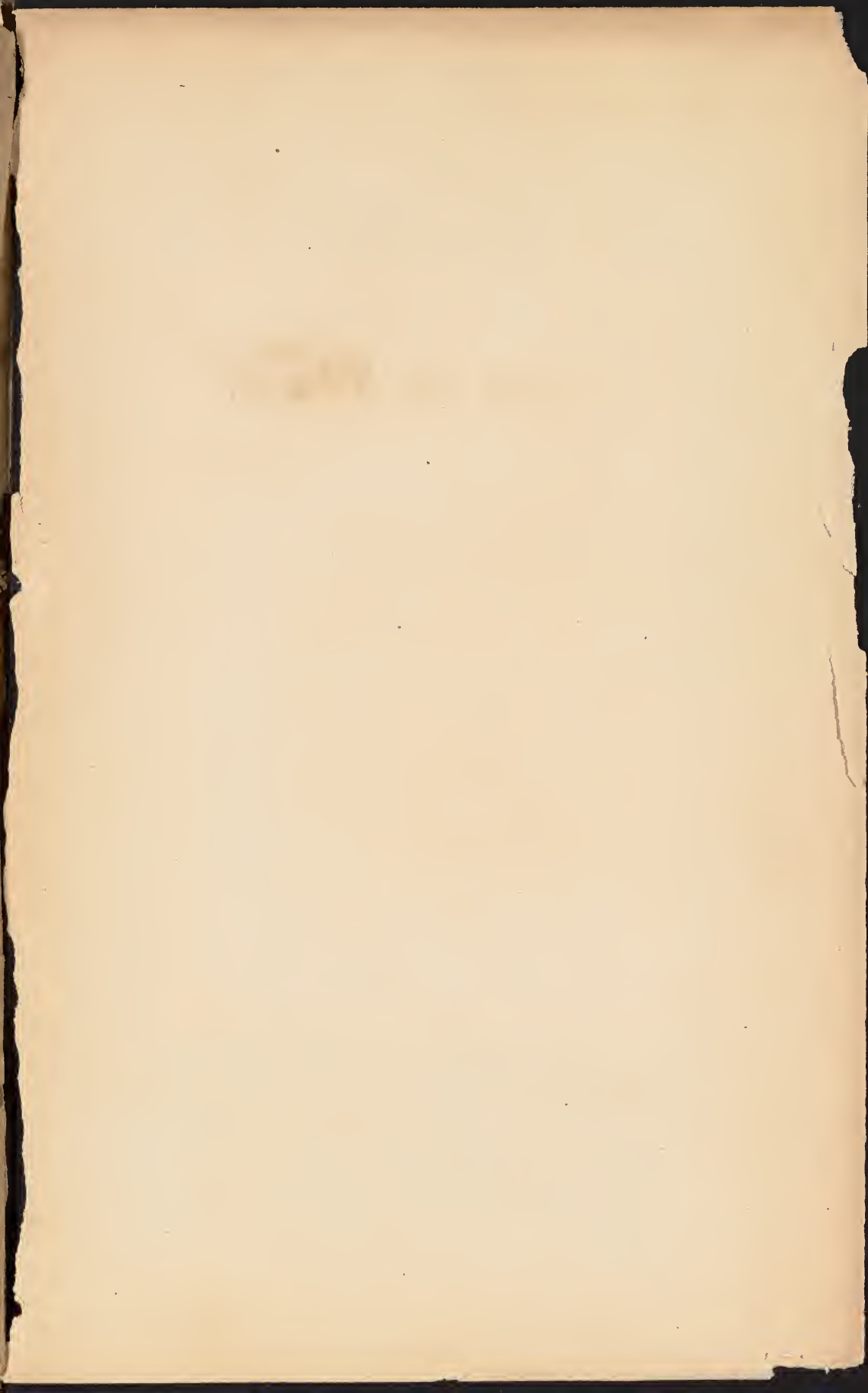
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- \* 11. DOUBLE TAXATION, PART I (Report of the Select Committee of the Chamber.

\* These brochures were issued in connection with the London Congress, June 1921.





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